

R U L E S

ORDERS and NOTICES,

I N

*Henry House
Middle Temple
1842.*

The Court of King's Bench.

Common Pleas

From the Second of King JAMES I. to
Michaelmas Term the 14th of King
GEORGE II. 1740.

Examined by the ORIGINALS.

To which are now added, many useful RULES of Court,
omitted in former Collections, and a Translation, in
opposite Columns, of the RULES heretofore Printed in
Latin :

Together with NOTES, REMARKS and REFERENCES :

By Sir George Cooke

And a new Alphabetical TABLE to the Whole.

o

In the SAVOY :

Printed by E. and R. NUTT, and R. GOSLING, (Assigns of *Edward Sayer, Esq;*)
for J. Stephens, J. Moxall, C. Ward and R. Chandler, J. Wood
and C. Woodward, and C. Waller. M DCC XL.

Adm.

323.4K.B

Eng.

740

Rec. Jan. 28, 1881

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RULES and ORDERS

O F

The Court of King's Bench.

*Die Mercurii prox'
post Tres Septi-
manas Sanctæ
Trin. Anno 2 Jac.
primi Regis.*

Trin. 2 Ja. I.
1604.

Pleadings.

I. *Ordinatum est per Curiam in plena Curia quod nullus Attornatus sive Clericus attendens hic in Curia deliberabit alicui Attornato vel Clerico attendenti hic in Curia vel alicui alie Personæ vel accipiet ab aliquo Attornato vel Clerico attendente in Curia hic vel ab aliqua alia persona aliquod placitum imponendum in Officio Clerici papyri vel copiam ejusdem placiti priusquam placitum illud sit impositum in eodem Officio Clerici Papyri & quod talis Copia postquam Placitum illud sit impositum facta fuerit per Clericum in prædicto Officio Clerici Papyri attendentem & signata cum manu unius Clerici ibidem attendentis sub pœna quod quilibet Attornatus vel Clericus in Curia hic attendens forisfaciet pro prima Offensa sua sic commissâ 10 s. solvendo Pixidi ad usum Pauperum; pro secunda Offensa sua sic commissâ*

I. *It is Ordered by this Court in full Court, That no Attorney or Clerk attending here in Court shall deliver to any Attorney or Clerk attending here in Court, or to any other Person, or shall accept from any Attorney or Clerk attending here in Court or from any other Person, any Plea to be put into the Office of the Clerk of the Papers or a Copy of such Plea, before the same Plea be left in the Office of the Clerk of the Papers; and that such Copy after such Plea is left shall be made by the Clerk attending in the aforesaid Office of the Clerk of the Papers and signed with the Hand of a Clerk attending there, under the penalty, that every Attorney or Clerk attending here in Court shall forfeit for his first Offence so committed 10 s. to be paid to the Box for the use of the Poor; 20 s. for the second Offence so committed, in like manner to be paid to the Box for the use of the Poor; and that every such At-*

20 s. similiter solvendo Pixidi ad usum Pauperum; & pro tertia Offensa sua sic commissâ quod talis Attornatus vel Clericus expellatur a Curia.

torney or Clerk shall for the third Offence so committed be expelled the Court. (a)

Eodem Die. The same Term,
1604.

II. *Ordinatum est per Curiam in plena Curia quod quilibet Attornatus & Clericus attendens hic in Curia qui recipiet aliquod Postea ab aliquo Clerico Assisærum vel aliquo alio Officiario pro Retorno Postea assignato notabit quodlibet hujusmodi Postea sic retornatum cum Manu Clerici pro eisdem le Postea recipiendis hic in Curia assignati infra duos Dies postquam talis Postea venit ad Manum hujusmodi Attornati sive Clerici hic in Curia attendentis sub pœna quod quilibet Attornatus vel Clericus in Curia hic attendens forisfaciet pro prima Default sua in hac parte 10 s. solvendo Pixidi ad usum Pauperum; pro secunda Default sua in hac parte 20 s. similiter solvendo Pixidi ad usum Pau-*

Postea.
II. *It is Ordered by the Court in full Court that every Attorney and Clerk attending here in Court who shall receive any Postea from any Clerk of Assises or any other Officer appointed to return Postea shall get every such Postea so returned, marked with the Hand of the Clerk appointed to receive Postea here in Court, within two Days after such Postea comes to the Hands of such Attorney or Clerk attending here in Court, under the Penalty that every such Attorney or Clerk attending here in Court, shall forfeit for his first default in this behalf 10 s. to be paid to the Box for the use of the Poor; for his second default in this behalf 20 s. in like manner to be paid to the Box for the use of the Poor, [a] and*

(a) Further enforced by the Rules Trin. 16 Car. II. and Mich. 2 W. & M.

*Pauperum; Et pro ter-
tia Defalta sua quod
talis Attornatus vel
Clericus expelletur a
Curia.*

and for the third default that
every such Attorney or Clerk
shall be expelled from the
Court. (a)

*Die Martis proxi-
mo post Octavas
Pur' beate Ma-
rie Anno 3 Jac.
primi Regis.*

Hil. 3 Ja. I.
1605.

Rules.

Ordinatum est quod
si aliqua Causa
mota fuerit prius in
Curia in Praesentia
Consilii ambarum Par-
tium & Curia tunc
superinde ordinaverit
inter easdem Partes si
eadem Causa iterum
moveatur contra ean-
dem Regulam sic per
Curiam datam tunc
fiat Attachamentum
versus eum qui procu-
raret eandem Motionem
ferri contra Regulam
Curiae sic prius factam,
Et quod Consil' qui sic
moveret habens Notitiam
de eadem priori Regula
non audiat hic in Cu-
ria in aliqua Causa eo-
dem Termino quo Causa
illa sic mota fuerit con-
tra Regulam Curiae in
forma praedicta.

It is Ordered, That
if any Cause shall first
be moved in Court in the
presence of the Counsel of
both Parties, and the Court
shall then thereupon Order
between those Parties, if the
same Cause shall again be
moved contrary to that Rule
so given by the Court,
then an Attachment shall
go against him who shall
procure that Motion to be
made contrary to the Rule
of Court so first made, and
that the Counsel who so
moves having Notice of the
said former Rule, shall not
be heard here in Court in
any Cause in that Term
in which that Cause shall be
so moved contrary to the
Rule of Court in Form a-
foresaid.

*Die Lune proxi-
mo post Crastin'
Ascensionis Do-
mini Anno 5 Ja-
cobi primi Regis.*

Hil. 5 Ja. I.
1607.

Bringing Money
into Court.

Ordinatum est per
Curiam in plena
Curia quod quaelibet
Pars ad cuius Requisi-
tionem aliqua denario-
rum summa inferentur
in Curiam hic custodi-
enda solveret Secunda-
rio Capitalis Clerici

It is Ordered by the
Court in full Court,
That every Party at whose
Request any (b) Sums of
Money shall be brought in-
to Court here to be kept,
shall pay to the Secondary
of the Chief Clerk of our

*Domini Regis hic pro
tempore existenti pro
Custodia huiusmodi De-
nariorum summae pro
quibuscumque Centum Li-
bris 20s. Et sic secun-
dum Ratam illam sol-
vetur pro qualibet ma-
iore aut minore summa
pro Custodia inde tam
pro Denariorum summa
in forma praedicta in-
ferenda quam secundum
Ratam praedictam pro
Denariorum summa mo-
do in Curia hic reman-
ente Et pro Denario-
rum summa subter sum-
mam 10l. solvetur pro
huiusmodi Denariorum
summa 2s. prout solvi
diu usitat' fuit.*

Lord the King here for the
Time being, for the keeping
of such Sum of Money 20s.
for every Hundred Pounds,
and so according to that rate
shall be paid for every greater
or lesser Sum for the
keeping thereof, as well for
a Sum of Money to be
brought in, in form afore-
said, as for a Sum of Mo-
ney now remaining in Court,
and for a Sum of Money under
10l. the Sum of 2s.
shall be paid for such Mo-
ney as used to be paid for-
merly.

*Die Mercurii pro-
ximo post quin-
den' Pasche An-
no 6 Jacobi pri-
mi Regis.*

Easter, 6 Ja. I.
1608.

Writs. Sheriffs.

Ordinatum est per
Curiam quod qui-
libet Vic' ante finem
cujuscumque Termin' aut
immediate post finem cu-
juscumque Termin' delibe-
rabunt & retornabunt
in Curiam omnia bre-
via de Latitat & bre-
via superinde extra
hanc Curiam emanan-
tia eis & eorum cuilibet
directa & delibera-
rata & super Retornam
& Deliberationem eo-
rundem brevium aut
eorum alicujus quilibet
Vicecomes sic retornans
brevia praedicta praes-
tabit Sacramentum in
Curia hic quod brevia
praedicta per ipsum sic
tunc deliberata & re-
tornata fuerunt omnia
brevia ei directa &
deliberata & quae ad
Manus devenerunt Et
si aliquis Vicecomes fe-
cerit Defaltam in hac
parte tunc quilibet Vice-
comes sic Defaltam faci-
ens

It is Ordered by the
Court that every Sher-
riff before the End of e-
very Term, or immediate-
ly after the End of every
Term, shall deliver and
return into Court all Writs
of Latitat and Writs there-
upon issuing out of this
Court to them and every of
them directed and delivered,
and upon the Return and
Delivery of those Writs or
any of them, every Sheriff
so returning the Writs afore-
said shall make Oath here
in Court, that the aforesaid
Writs by him so then deli-
vered and returned, were all
the Writs directed and deli-
vered to him, and which
came to his Hands; and if
any Sheriff shall make De-
fault in this behalf, then e-
very Sheriff so making De-
fault shall attend the Court
here, to expect the Judg-
ment of the Court here for
his

(a) See Hil. 1657.

(b) Note; This is often practised where a Tender cannot be pleaded, and therefore the De-
fendant moves the Court that upon Payment of a certain sum so much may be struck out of the Declaration and the Plain-
tiff proceed further at his Peril.

et attend' Curiam hic ad expectandum Judicium Curia hic pro Contemptu suo in hac parte facto.

his Contempt in this behalf committed.

Die Veneris proximo post Mensē Sancti Michaelis Anno 7 Jacobi primi Regis.

Mich. 7 Ja. I.
1609.

Bail.

Ordinatum est per Curiam quod nullus Attornat' imponet aliquod Ballium pro aliquo Defendente quocunque in aliqua Causa quacunque antequam hujusmodi Attornat' pro tali Defendente det prius Notitiam Attornato pro Querente in Causa qua idem Defendens tradetur in Ballium sub pena expulsiōis ab Officio.

It is Ordered by the Court, That no Attorney shall put in any Bail for any Defendant whatsoever, in any Cause whatsoever, before such Attorney for such Defendant (a) first give Notice to the Plaintiffs Attorney, in the Cause for which the said Defendant shall be delivered unto Bail, upon pain of Expulsion from his Office.

Die Veneris proximo post Crastin' Sancte Trinitatis Anno 9 Jacobi primi Regis.

Trin. 9 Ja. I.
1611.

Audita Querela.

Ordinatum est quod nullum Breve de Audita Querela pro aliqua Causa quacunque allocator nec Ballium superinde capiatur nisi hic in publica & aperta Curia & per Specialem motionem hic prius factam & Regula superinde intratur.

It is Ordered, That no Writ of Audita Querela for any Cause whatsoever be allowed, nor Bail thereupon taken, unless here in publick and open Court and by special Motion here first made and a Rule thereupon entered.

Die Lune proximo post Crastin' Ascensionis Domini Anno 13 Jac. primi Regis.

Easter, 13 Ja. I.
1615.

Attorneys.

Quia datum est Curia Domini Regis coram ipso Rege intelligi per Motionem in plena Curia ex gravi Querela Attornator' hujus Curia quod cum iidem Attornati sunt Attornati de Recordo in Curia hic in Recordo nominati & sic fuerunt ab antiquo & attendentes coram Justiciariis ad Affisas capiendas in diversis Circuitibus ad imponendum Recorda & ad comparandum pro Clientibus ad Affisas in talibus Recordis in quibus ipsi nominantur Attornati coram eisdem Justiciariis ad Affisas & sunt Attornati de Recordo in eisdem Recordis de Nisi prius & parati ad informandum Consilium Clientum & Magistrorum suorum in ea parte ibidem quod iidem Attornati hujus Curia Compulsi fuerunt per Marefchillos diversorum Justiciariorum ad Affisas solvere dictis Marefchallis pro imponendo Recorda de Nisi prius pro Querentibus & comparando pro Defendentibus in talibus Recordis in quibus ipsi sunt & nominantur Attornati diversa indebita & majora & graviora feoda & pecuniarum summas quam Attornati Curia de Banco in talibus Casibus persolverunt & persolvere nisi fuerunt & quod eisdem Attornatis hujus Curia non allocantur Feoda sua pro Attendentiis suis ad Affisas predictas in Derogationem Dignitatis hujus Curia ac

Because the Court of the Lord the King before the King himself is informed by Motion in full Court, upon the grievous Complaint of the Attorneys of this Court, that whereas these Attorneys are Attorneys of Record in the Court here, in the Records named, and so have been of old, and attending before the Justices of Assise, taken in divers Circuits to put in Records and to appear for Clients at the Assises, in such Records in which they were named Attorneys before those Justices at the Assises, and are Attorneys in the same Records of Nisi Prius, and prepared to inform the Counsel of their Clients and Masters in that behalf there, that the said Attorneys of this Court have been compelled by the Marshalls of divers Justices of Assise to pay to the said Marshalls for putting the Records of Nisi Prius for the Plaintiffs, and appearing for the Defendants in such Records in which they are, and are named Attorneys, divers undue and greater and more grievous Fees and Sums of Money than the Attorneys of the Court of Common Pleas have paid and used to pay in such Cases, and that the said Attorneys of this Court are not allowed their Fees, for their Attendants at the Assises aforesaid, in Derogation of the Dignity of this Court, and to the great Damage of the said Attorneys of this Court, and their Clients.

ad

[b]

And

(a) This is obsolete, for now it is sufficient to give Notice of the Bail after they are put in.

ad grave Dampnum
dictorum Attornatorum
huius Curie & eorum
Clientium.

Et quia satis constat
Curie Domini Regis
hic quod fuerunt Attor-
nati huius Curie ab
antiquo & Warranta
Attorn' quolibet Termi-
no recipiuntur pro eis ac
quod equa Justitia eis
in hac parte fieri possit
Datum est intelligi per
Curiam dicti Domini
Regis hic quod posthac
nullus Attornatus huius
Curie pro Impositione
alicujus Recordi de Ni-
si prius coram aliquo
Justiciario ad Affisas
in quo ipse nominabitur
Attornatus in Recordo
& attendens fuerit ad
Affisas circa Triationem
talis Recordi solvat seu
solvere compulsus fuerit
plus sive majorem sum-
mam Pecunie quam
Attornati de Comuni
Banco apud Westmona-
sterium in talibus Cas-
ibus solverunt &olvere
consueverunt sed quod
Feoda Attorn' huius Cu-
rie eis allocentur ad
Affisas predictas.

And because it sufficiently
appears to the Court of the
Lord the King here, that
there were Attorneys of this
Court of old, and that War-
rants of Attorney have been
received in every Term for
them, and that equal Ju-
stice may be done them in
this behalf, It is Ordered,
by the Court of the said
Lord the King here, that
hereafter no Attorney of
this Court, for the putting
in any Record of Nisi prius
before any Justice of Assise
wherein he shall be named
Attorney in the Record and
shall be attending at the
Assises about the Trial of
such Record, shall pay or be
compelled to pay more of a
greater Sum of Money than
the Attorneys of the Court
of Common Pleas at West-
minster in such Cases pay
and have been accustomed
to pay; but that the Fees
of the Attorneys of this
Court shall be allowed them
at the Assises aforesaid.

Die Lune proxi-
mo post Crastin'
Ascensionis Do-
mini Anno 17 Ja-
cobi primi Regis.

Easter, 17 Ja. I.
1619.

Judgments.

Ordinatum est per
Curiam hic in
plena Cur' quod ubi a-
liquot Judic' in aliqua
Causa quacunque hic in
Cur' Domini Regis co-
ram ipso Rege imposte-
rum reddit' fuerit ubi
Debitum & Dampna
attinger' ad summam
20 l. seu amplius quilibet
Attorn' in tali Cau-
sa fecerit vel fieri procu-
rabit quandam Notam
in pergameno vel papir'
continen' Nomina &
Cognomina Partium
Quer' & Defend' &

It is Ordered by the
Court here in full Court,
That where any Judgment
in any Cause whatsoever
here in Court of the Lord
the King before the King
himself, shall hereafter be
given where the Debt and
Damages amount to the
Sum of twenty Pounds or
more, that every Attorney
in such Cause shall make or
cause to be made a Note
in Parchment or Paper con-
taining the Names and Sur-
names of the Parties, Plain-
tiffs and Defendants, and

Debit & Dampn' re-
cuperand' una cum Ter-
mino & Rotulo ubi tale
Judic' fuerit intrat' in
hac qua sequitur For-
ma, viz.

A. B. ad Se. Jam C. D.
Deb' 20 l.

Pascb. 17 -- Rot. 302.

A. J. & B. R. ad
Se. N. S.

Dampn' 23 l. 13 s. 4 d.

Hil. -- 15 Rot. 100.

B. Attorn'.

the Debt and Damages to
be recovered, together with
the Term and Roll where
such Judgment shall be en-
tered in the following Form.

C. D. at the Suit of A. B.
Deb't 20 l.

--- Term --- Roll ---

C. D. and E. F. at the Suit of
A. B.

Damages 23 l. 13 s. 4 d.

Hillary 15 --- Roll ---

B. Attorney.

Et hujusmodi Notam
sic facta deliberabit L. C.
uni Cleric', &c. &
cuilibet alii Clerico bu-
jusmodi Locum suum
imposterum exercend'
per ipsum in quodam
Libro eodem proposito
providend' registrand'.

And shall deliver such Note
so made to L. C. one of the
Clerks, &c. and to every o-
ther Clerk who for the future
shall execute his Place, to be
registred by him in a certain
Book to be provided for that
purpose. (a)

Die Martis proxi-
mo post Octab.
Pur' beate Ma-
rie Anno 19 Ja-
cobi primi Regis.

Hil. 19 Ja. I.
1621.

Sheriffs of Wales.

CUM Questio facta
fuit si omnia Bre-
via judicial' super Ju-
dic' in Cur' Domini Re-
gis coram ipso Rege red-
dita emanant' pro Exe-
cutione eorundem curre-
rent & exequi possent
infra separata Com'
Wallie & superinde
præd' Cur' Domini Re-
gis coram ipso Rege per
Rob'tum Heath Mil'
Solicitor' Domini Re-
gis nunc nota existens
quia dictæ Cur' dicti
omni Regis coram
ipso Rege super matura
Deliberatione & Consi-
deratione diversorum
Præceden' in hoc Casu
ante hac facta manifeste
liquet quod usualis &
constans Consuetudo Cur'
præd' hacten' fuit &
est quod omnia hujusmo-
di Brevia infra Walli-
am possint & debent
legitime exequi. Ordinal'
est quod omnia hujusmo-
di Brevia judicial' fieri
& dirigi possint & de-
bent

Whereas a Question hath
been made, whether all
judicial Writs issuing upon
Judgment given in the
Court of our Lord the King
before the King himself, for
Execution thereof should run
and might be executed with-
in the several Counties of
Wales, and thereupon the a-
foresaid Court of the Lord
the King before the King
himself, being now moved by
Sir Robert Heath, Kt.
Solicitor of the Lord the
King, because it manifestly
appears to the said Court of
the said Lord the King,
upon mature Deliberation
and Consideration of divers
Præcedents in this Case here-
tofore made, that the usual
and constant Course of the
Court aforesaid hitherto hath
been and is, that all such
Writs may and ought to be
lawfully executed within
Wales. It is Ordered that
all such judicial Writs may
and ought to be made and
directed

(a) See Easter, 1657. and Mich. 5 Anns.

*bent Vic' præd' separat' Com' Wallie & per e-
osdem Vic' pro Tempore
existen' exequi debent
sicut in omnibus al'
Com' Anglie Periculis
suis incumben'.*

directed to the Sheriffs of the
said several Counties of *Wales*
and ought to be executed by
those Sheriffs for the Time
being, at their Peril as in all
other Counties of *England*.

RULES and ORDERS OF THE Court of King's Bench.

*Die Martis proximo
post Octab' Pur' Anno 8 Car-
oli primi Re-
gis.*

Hil. 8 Car. I.
1632.

Declarations.

*O*rdinatum est quod null' Philizar' Cleric' vel Attorn' Cur' super Comparanc' alicuj' Defend' in aliquo Bre- vi original' prosequatur faciet intrabit vel deli- berabit aliquam Nar- rationem varian' in Materia ab original' Bre- vi primo prosecut' nec recipiet aliquam ta- lem Narrationem sic varian' super Compa- renc' sua super tali Bre- vi original' sine speciali Regula in aperta Cur' prius obtenta nec prose- quatur faciet intrabit siue deliberabit alicui alii Philizar' Clerico siue Attorn' Cur' com- paren' super aliquo Bre- vi original' nec recipiet de aliquo Philizar' Cle- rico siue Attorn' plur' narr' quam unam sub Pena Forisfacturæ Of- ficii cujuslibet Philizar' sic offendens & expulsio- nis a Cur' ac cujuslibet alius Clerici vel At- torni Cur' sic offendens expulsion' a Cur'.

It is Ordered, That no Philizar, Clerk or Attor- ney of the Court, upon the Appearance of any Defen- dant in any original Writ do Prosecute, make, enter or deliver any Declaration vary- ing in Matter from the original Writ first prosecu- ted, nor shall receive any such Declaration so varying, upon his Appearance upon such original Writ, without a special Rule in open Court first obtained; nor shall prosecute, make, enter or deliver to any other Philizar, Clerk or Attorney of the Court appearing upon any original Writ, nor shall re- ceive from any Philizar, Clerk or Attorney, more Declarations than one upon Penalty of Expulsion, and forfeiting the Office of e- very Philizar so offending, and Expulsion from the Court of every other Clerk or At- torney so offending. (a)

(a) Trin. 12 W. III.

*Die Martis prox' post tres Septiman' Pasche
Anno 9 Caroli primi Regis, 1633.*

Palace Court.

*O*rdinatum est quod separat' Record' Judic' hic in Cur' affilat' super Brevis de Error' quæ non intrantur de Recordo emendabuntur in stilo Cur' & fiant Cur' Palatii Regis Westm' ten' apud Southwerk in Com' Surr' infra Jurisdictionem istius Cur' die Veneris scilicet tali Die Anno Regni Domini nostri Caroli Dei Gratia Anglie Scotiæ Franciæ & Hiberniæ Regis Fidei Defensor, &c. coram Thoma Edmonds Mil' Thesaurario Hospitalii Domini Regis Edmundo Verney Mil' Mariscallo Hospitalii præd' & Edwardo Herbert Ar' Senello Cur' præd' Judicib' Cur' ill' Virtute Literarum Patentium dicti Domini Regis nunc ge- ren' Dat' apud Canbury 12 Die Julii Anno Regni sui Sexto. (b)

*Die Veneris in
Crastino Ascensio-
nis Domini Anno
11 Caroli primi
Regis.*

Easter, 11 Car. I.
1635.

Certiorari.

*O*rdinatum est quod nullum Bre- ve de Certiorari super aliquo Bre- vi de Error' prosecut' vel fact' erit per aliquem Clericum vel Attorn' Cur' post aliquod Breve de Certi- orari in eadem Causa prius prosecut' & retor- nat' sine Motione per Consil' in Curia.

It is Ordered, That no Writ of Error shall be sued out or made by any Clerk or Attorney of the Court, after a Writ of *Cer- tiorari* in the same Cause hath been already sued out and returned, without Mo- tion in Court by Counsel.

*Die Sabbati proximo
post Octab' Pur' Anno 14
Caroli primi Re-
gis.*

Hil. 14 Car. I.
1638.

Prisoners.

*O*rdinatum est quod quilibet Prisonar' qui removea- tur a Custod' Gardia- ni de le Fleet Prisonæ Mar' huj' Cur' virtute Brevis de Habeas Corp' remanebit in Prisonæ Mar' præd' & non deliberetur quousq' sol- vit Feoda Prison' Gar- dian de le Fleet præd' debita.

It is Ordered that e- very Prisoner who shall be removed from the Custody of the Warden of the Fleet, to the Prison of the Marshalsea of this Court by Virtue of a Writ of *Habeas Corpus* shall remain in the Prison of the Marshalsea a- foresaid, and shall not be set at Liberty until he hath paid the Prison Fees due to the a- foresaid Warden of the Fleet.

Die

(b) Obsolete.

Die Jovis prox
post Crastin' A-
nimar' Anno 15
Caroli primi Re-
gis.

Mich. 15 Car. I.
1639.

Philizar.

O Rdinatum est per Cur' quod omnes & singuli Philizar' huj' Cur' in propr' personis suis comparebunt in secundo Retorn' prox' Termin' ad intenden' Officium suum & ad ostendend' Causam de eorum non Attendend' aliter Officium eorum sic delinquent' seiscietur.

IT is Ordered by the Court, That all and singular the Philizars of this Court shall appear in Person on the second Return of the next Term to take care of their Officers, and to shew Cause of their Non-attendance, otherwise the Office of those so making Default shall be seized.

Die Lune proximo
post tres Septi-
man' Sancti
Mich. Anno 17
Car. primi Regis.

Mich. 17 Car. I.
1641.

Paper Books. (a)

O Rdinatum est quod in omnibus Materiis in Lege Special' Verdict' & Brevib' de Errore super Materiis in Lege vel Special' Verdict' ac similiter in omnibus al' Causis in Cur' dependen' in Libro Cleric' Papir' intrat' vel intrand' ubi Libri Justic' deliberari debent quod secundum antiquum Cursum Cur' immediate post Lectionem Recordi Libri Capitali Justic' & Justic' sen' per Quer' vel ejus Attorn' & al' Justic' per Defend' vel ejus Attorn' deliberari debent Et si una Pars vel ejus Attorn' Libros in Forma prae'd' deliberare neglexerit tunc altera Pars vel ejus Attorn' tales Libros deliberari omisso ad Custagiam Partis quae ita neglexerit deliberari debet ante aliquod Argumentum in eadem Causa ad Barram per Consil' suis facti.

IT is Ordered, That in all Matters of Law, special Verdicts and Writs of Error upon Matters in Law or special Verdicts, and likewise in all other Causes depending in Court entered, or to be entered in the Book of the Clerk of the Papers where Books ought to be delivered to the Judges, that according to the ancient course of the Court immediately after the reading of the Record, Books ought to be delivered to the Chief Justice and senior Justice by the Plaintiff or his Attorney, and to the other Justices by the Defendant or his Attorney; and if one Party or his Attorney shall neglect to deliver the Books in form aforesaid, then the other Party or his Attorney ought to deliver such Books omitted, at the Cost of the Party who shall so neglect, before any Argument in that Cause shall be made at Bar by Counsel.

Die Lune proximo
post tres Septi-
man' Sancti
Trin. Anno 20
Car. primi Regis.

Trin. 20 Car. I.
1644.

Clerk of the Errors.

O Rdinatum est per Cur' si Cleric' Error' per Capital' Justic' huj' Cur' ap-punctuat' non recipiet Breve de Errore & faciet ea quae adinde pertinent sicut consuevit tunc Cleric' Thesaurar' huj' Cur' faciet in ea parte quod Cleric' Thesaurar' ill' Temporibus praeteritis sive praed' Cleric' Error' in ea parte facere consuevit secundum Legem & Consuetud' huj' Cur'.

IT is Ordered by the Court, That if the Clerk of the Errors appointed by the Chief Justice of this Court, shall not receive a Writ of Error and do those things which appertain thereunto as hath been accustomed, then the Clerk of the Treasury of this Court shall do in that behalf what the Clerk of the Treasury in Times past, or the aforesaid Clerk of the Errors hath used to do in that behalf, according to Law and the course of this Court.

Die Mercur' pro-
ximo post tres Sep-
timan' Sancti
Trin. Anno 21
Car. primi Regis.

Trin. 21 Car. I.
1645.

Sheriff of Chester.

O Rdinatum est quod Vic' Com' Cestr' retorn' omnia Brevia a Cur' hic emanant' ei directa secundum Retorn' eorundem Brevium sub Pen-na 50l.

IT is Ordered that the Sheriff of the County of Chester, shall return all Writs issuing out of this Court to him directed, according to the return of those Writs under the Penalty of 50l.

Die Jovis proximo
post Octab' Sancti
Martini Anno
21 Caroli primi
Regis.

Mich. 21 Car. I.
1645.

Bail.

O Rdinatum est quod Attorn' pro Quer' in qualibet Actione in hac Curia qua bon' Ballium de Jure requireretur tempore oblationis Ballii ill' attend' super Notic' ei dat' coram aliquo Justic' huj' Cur' ad Ballium ill' sic oblat' ac-

IT is Ordered that the Attorney for the Plaintiff in every Action in this Court, in which good Bail is by Law required at the time of offering such Bail, shall upon Notice to him given attend before any Justice of this Court to accept of, or other-

(a) See Easter, 33 Car. II. and East. 2 Ja. II.

acceptand' vel aliter ad
capied' exceptionem sub
Pœna extraponend' e
Rotulo.

otherwise take exception to
the Bail so offered, under the
penalty of being struck out
of the Roll. (a)

ric' Philizar' vel At-
torn' pro Defalta affila-
tionis Ballii præd' ex-
traponantur e Rotulo.

Philizars or Attorneys, for
default of filing of the Bail
aforesaid, shall be put out
of the Roll. (d)

Die Veneris proximo post Crastin' Pur' Anno 21
Caroli primi Regis.

Attorneys and Sheriffs.

Ordinatum est quod omnes Attorn' buj' Cur' non perso-
naliter comparentes hic in Cur' in tres Septiman'
Pasche prox' extraponentur e Rotulo quodq; omnes Vic' buj'
Regni Angliæ vel eorum Deputat' attendent Cur' hic in
Quinden' Pasche prox' & sic de Die in Diem durante toto
Termino & sic quolibet Termino ad faciend' Responsiones su-
as ad omnia Brevia sive Processus eis respective direct' & a
Cur' hic emanant' sub Pœna cujuslibet eor' 40 l. (b)

Die Lune proximo
post quinque Sep-
timan' Pasche
Anno 23 Caroli
primi Regis.

Easter, 23 Car. I.
1647.

Under-Sheriffs.

Ordinatum est
quod subvic' cu-
juslibet Com' & Civit'
attend' Cur' Domini
Regis coram ipso Rege
secundo Return' cujusli-
bet Termini sub Pœna
40 l.

It is Ordered that the
Under-Sheriffs of every
County and City attend the
Court of our Lord the King,
before the King himself on
the second Return of every
Term, under the Penalty of
40 l. (c)

Die Lune proximo
post quinden'
Sancti Hill. Anno
23 Caroli primi
Regis.

Hil. 23 Car. I.
1647.

Bail.

Ordinatum est
quod omnes Cle-
rici Philizar' & At-
torn' buj' Cur' qui im-
pon' Speciale Ballium
pro Defend' affilabunt
omnia talia Special'
Ballia sic cap' & ac-
cept' per Attorn' Quer'
indilate post Accepti-
onem aliter præd' Cle-

It is Ordered that all
Clerks, Philizars and
Attorneys of this Court, who
shall put in special Bail for
Defendants, shall file all such
special Bails (so taken and
accepted by the Plaintiffs
Attorney) immediately after
Acceptance thereof, other-
wise the aforesaid Clerks,

Die Mercurii prox'
post Octab' Sanc-
ti Hil. Anno Do-
mini 1649.

Hillary, 1649.

Ejectment.

I. **O**rdinatum est
quod post ordi-
nar' Regul' buj' Cur'
imposterum dat' Defend'
ad respond' in aliqua
Actione Transgr' & e-
jectionis Firmæ & De-
fend' non respond' ad
Narrationem Judic'
dari & intrari poterit
pro Quer' versus De-
fend' pro Defectu Re-
sponsi prout in aliis Ac-
tionibus absque Speciali
Motione in Cur' per
Consil' Provisio quod in
hoc instanti Termino
Sancti Hillar' Quer'
dabit Defend' Specialem
Notic' bujus general'
Regulæ.

I. **I**t is Ordered that
after the ordinary
Rule of this Court hereafter
given to the Defendant to
plead in any Action of Tres-
pass and Ejectment, and the
Defendant doth not plead to
the Declaration, Judgment
may be given and entered
for the Plaintiff against the
Defendant, for want of a
Plea, as in other Actions,
without special Motion in
Court by Counsel; provided
that in this present Term of
St. Hillary, the Plaintiff
shall give the Defendant spe-
cial Notice of this general
Rule. (e)

Die Veneris prox'
post Octabas Sanc-
ti Hil. eodem An-
no.

Hillary, 1649.

II. **O**rdinatum est
quod in quolibet
Exitu juncto
per Patriam triand'
& Record' de Nisi
Prius superinde prose-
cut' pro Triatione exit'
ill' si Clericus buj' Cur'
qui Exit' ill' intrare de-
buit eundem Exit' de
Recordo non intrabit
ante Initium prox' Ter-
mini post Record' de
Nisi Prius ut præfer-
tur prosecut' forisfaciat
20 s. solvend' Pixidi ad
usum Pauperum.

II. **I**t is Ordered that
in every Issue joined
to be tried by the Country,
and a Record of Nisi prius
thereon sued out for the Tri-
al of that Issue, if the Clerk
of this Court who ought to
enter that Issue, shall not en-
ter it of Record before the
beginning of the next Term
after the Record of Nisi prius
sued out as aforesaid, he
shall forfeit 20 s. to be paid
to the Box for the Use of
the Poor. (f)

[c]

Die

(a) Not practised. (b) Note; This is not the Practice at this Time; see the Rules for the Attendance of Attorneys, Trin. 14 Car. II. and of Sheriffs East. 15 Car. II. reg. 2. (c) See East. 15 Car. II. reg. 2. (d) Altered by Hil. 1650. Trin. 13 Car. II. Mich. 16 Car. II. Easter 29 Car. II. (e) But see Trin. 18 Car. II. (f) Easter 1657. reg. 3. Tri. 1 Ja. II. and see Mich. 5 Anne, reg. 1.

*Die Mercurii prox'
post Octab' Pur'
Anno 1650.*

Hillary, 1650.

Bail.

III. **O** *Rdinatum est quod specialia Balia capta & allocata coram aliquo Justic' huj' Cur' inferantur in Officio Capitalis Clerici eodem Termino allocata forent assignanda de Terminis quo capta fuerunt sub Poena quod quilibet Clericus vel Atern' qui Defaultam fecerit inde solvatis 5 s. solvend' Pixidi Pauperum.*

III. **I**t is Ordered, That special Bails taken and allowed before any Justice of this Court, shall be brought into the Office of the Chief Clerk in the same Term in which they were allowed, to be filed of the Term of which they were taken, under the Penalty that every Clerk or Attorney who shall make default therein shall forfeit 5 s. to the Poors Box. (a)

Easter, 1651.

Monday next after the Morrow of the Ascension of our Lord 1651.

Sheriffs. Jurors.

It is Ordered, That all Sheriffs do upon the Return of every *Venire facias*, cause sufficient Summons to be given unto all Jurymen that are by them returned upon any Juries, for the Preventing of Tales.

And It is likewise Ordered, That all Attornies do deliver unto the Sheriffs of all Counties of England, within forty Miles of London, all old *Distringas's*, within eight Days after the End of Hillary and Trinity Term, or else none shall be received; and that all Sheriffs do cause sufficient Summons to be given to all Jurymen, in these old *Distringas's*, a Week before the Affizes at least.

Mich. 1651.

Monday next after the Morrow of All-Souls 1651.

Notice of Trial.

FOR preventing of Inconveniencies which often happen for Want of Notice given upon Trials of old Causes at the Affizes, and for Want of Notice of Trials at Affizes by Proviso, and for putting in of Bails upon Habeas Corpora unduly.

4

(a) See Hil. 23 Car. I. Tri. 12 Car. II. Mi. 16 Car. II. and Easter 29 Car. II. (b) See Hil. 10 W. III.

(c) Mic. 3 Anne.

It is Ordered, That due Notice be given to the Defendant upon all Trials at every Affizes, when any Cause shall be carried to Trial, as well in old Causes as in new Causes; and likewise to the Plaintiff in all Causes, to be tried by Proviso, as well in London or Middlesex, as at Affizes.

Bail.

And it is further Ordered, That from henceforth no Bail be tendred or put in upon any Habeas Corpus, until the Habeas Corpus and Causes for which Bail is to be put in be returned; to the End it may appear what the Causes are for which Defendant is detained, and Bails may be duly taken, and the Habeas Corpora and Bails duly filed. (b)

RULES and ORDERS

OF THE

Court of Upper Bench,

Made and Published by the Judges of the said Court in the Term of St. Michael in the Year 1654, and first printed Anno Dom. 1655.

Sec. I. Concerning Officers and Attornies.

THAT all Officers and Attornies of this Court be admitted of some Inns of Court or Chancery, by the beginning of Hillary Term next, or in the same Term wherein they are admitted Officers or Attornies, and be in Commons one Week in every Term, and take Chambers there; or in case that cannot be conveniently, yet to take Chambers or Dwellings in some convenient Places, and leave Notice with the Butler where their Chamber or Habitations are, under pain of being put out of the Roll of Attornies. (c)

That all Officers and Attornies of this Court appear in Person in this Court, upon, or before the fourteenth Day of Michaelmas Term, and upon or before the seventh Day of every other Term,

Let
the
Secy
be
627
ad. 1

Term, upon pain of 10 s. for the first Default, 20 s. for the second Default, and putting out of the Roll upon the third Default. The Appearance to be entred with the Prothonotary: And the Defaulters to be delivered to the Court upon Oath (if required) within three Days after the Time appointed for Appearance. (a)

That every Sheriff have his Deputy in this Court, to return and receive Writs. And that each Deputy Yearly before *Hillary* Term, have his Name and the Place of his Residence in *London* or *Westminster*, set and continued up in Tables, in the Office of the Prothonotary. (b)

That the Clerks of Assize, their Deputies or Assistants, do Personally appear with their *Posses* on the first Day of *Easter* and *Michaelmas* Term; and the Deputy Sheriffs, and all other Officers of the Court do Personally appear by the Effoin Day of every second Return of every Term; and continue there during the residue of the Term, without some just cause to the contrary allowed by the Court.

That for the future, common Solicitors be not admitted to practise in this Court, unless they are admitted Attorneys of either Bench; provided that it extend not to the managing of Evidence at a Trial, nor to private Solicitors, or Servants of Corporations, or other Persons in the Causes of their Masters. (c)

That none be admitted an Attorney of this Court for the Time to come, unless he hath practised as a common Solicitor in this Court by the space of five Years now last past; or hath served, or shall have served by the space of five Years as a Clerk to some Judge, Serjeant at Law, practising Counsel, Attorney, Clerk or Officer of one of the Courts at *Westminster*, unless his Master die or give over his Practise; and be also upon Examination found of good Ability and Honesty for such Employment; and that sufficient proof (to be put into Writing) be made of such service to the Prothonotary upon a desire of Admittance, and then filed without Fee.

That no Person practise in another's Name, nor that any Attorney knowingly permit another to practise in his Name, upon pain of being put out of the Roll. (c)

That Attorneys dismissed by one Court from their Practise for Misdemeanors, be not (after Certificate) admitted to Practise in another Court, it being contrary to the Intent of the Law.

That no Under Sheriff or Bailiff of Sheriffs or Liberties be admitted during such their Employment, to practise as Attorneys, under pain of Expulsion from the Employment of an Attorney and not to be readmitted. (d)

That such Attorneys as have not been attending their Employment in this Court by the space of one Year last past, unless hindered by Sickness, be (e) not allowed their Privilege of Attorneys.

That for the Prevention of Maintenance and Brocage, no Attorney be Lessee in an Ejectment, nor Bail for a Defendant in this Court in any Action.

Sect. II. Concerning Sheriffs and Bailiffs.

THAT for the prevention and remedy of Delays and Abuses in Sheriffs, Under-Sheriffs, Bailiffs of Liberties and their Deputies, and other Bailiffs of Sheriffs, &c. in the execution of Process and Writs; if it shall appear that any such Officer shall wilfully delay the Execution, or (f) Return of any Process or Execution, or shall take or require any undue Fees for the same, or shall give Notice to the Defendant, thereby to frustrate the Execution of any Process, or Writ; or having levied Money, shall detain it in their Hands, after the Times of the Returns of their Writs, besides the ordinary Course of Amerciaments; the Contempt or Misdemeanour appearing, an Attachment, Information, Commitment, or Fine to be, as the Case requireth; and this as well in Case of a late Sheriff, or Person before mentioned, as of them at present in Office.

That to reform the Abuses by Blank Warrants granted by Sheriffs, whereby Persons are arrested and driven to extorted Compositions for their Liberty, without Process of Law, no Warrants be granted out to any Officer to arrest or attach any Person before a Writ first come to the Sheriff.

And whereas Sheriffs have taken immoderate and excessive Fees for Execution of Writs of Possession, and Restitution of Possession contrary to Law; it is declared, That such immoderate Fees ought not to be taken; and in case such shall be taken, this Court to proceed to punish the same according to Law. (g)

Sect. III. Concerning the Reformation and Punishment of Abuses in general.

Ordered, That a Jury of able and credible Officers, Clerks, and Attorneys, once in three Years be impannelled, and sworn to enquire,

1. Of the Points usually inquirable by Writ, viz. Falsities, Contempts, Misprisions and Offences.

2. Of such who have been admitted Attorneys or Clerks, and are notoriously unfit, their Names to be presented to the Court, and they to be punished or removed, as the Case shall require.

3. Of

(a) Trin. 14 Car. II.

(b) Easter, 15 Car. II. reg. 2.

(c) Stat. 2 Geo. II.

cap. 23. 12 Geo. II. cap. 13.

(d) Stat. 1 H. 5. c. 4.

(e) Lutwych, 1667. contra.

(f) Mich. 6 Geo. II.

(g) See Stat. 3 Geo. I. cap.

15 and 16.

3. Of new or exacted Fees, and of those that have taken them under whatsoever pretence, and to prepare and present a Table of the due and just Fees, that the same may be fixed and continue in every Office; and likewise for the *Marshalsea*.

4. And that some Persons be enjoined and sworn to give Evidence, viz. some Clerks of the Court, and some Attorneys in every County, not excluding others.

Sect. IV. *Concerning the better preservation of Order among the Officers and Clerks and observation of breach of Orders and Misdemeanours.*

THAT the Court do once every Year in *Michaelmas* Term nominate Twelve or more able and credible Practisers in the Court to continue for the Year coming, for these Purposes hereafter limited.

That they or any of them examine such Persons as shall desire to be admitted Attorneys, and appoint convenient Times and Places for the same; and in Order thereunto, that such Persons as shall desire to be admitted Attorneys, first attend the Prothonotary with his Proof of Service, then to repair to the Persons appointed to examine Attorneys, and being approved, to be presented to the Court with the Assignment of his Approbation, and then to be sworn in open Court, unless some just exception be against him. (a)

That they give Information to the Court from Time to Time, of breaches of Orders, and Miscarriages of Officers, Attorneys and Clerks.

That a settled course of Practice, and Proceedings be settled, especially in those Causes where there hath been uncertainty; and that the inconveniencies in Process, Proceedings and Pleadings, may be regulated unto a due course in order whereunto these several things are ordered and directed, according to the Method of Proceedings.

Sect. V. *Concerning Original Suits and Process and where laid.*

THAT Actions upon the Case, Trespass, for Goods, Assault or Imprisonment, arising in any *English* County, be laid in their proper Counties, unless they arise where the Justices of *Nisi Prius* seldom come. And because Trespass and Trover for Goods, Battery, Imprisonment and Slander, must needs be notorious in what County they arise; the Attorney knowingly laying them out of their proper County (unless in the Cases before expressed, or for such other Causes as shall be allowed by the Judges

4

of the Court, and duly made appear to be true) to be severely punished.

That although the Declaration be delivered seven Days before the last Day of the next precedent Term, or after, yet before Plea upon Oath made, the *Visne* may be changed upon motion, in the said transitory Actions, the next Term after: And the Defendant to plead to the new Action as he should have done in the other, without delay.

That the *Visne* may be changed (upon Oath) as before, though the Defendant come in by *Exigent*.

Sect. VI. *Concerning Process, and serving thereof.*

THAT according to the Provision of the Statute of 31 *Eliz.* (b) all Attorneys that sue out Process of *Exigent*, be careful that Writs of Proclamation be delivered, and the Sheriffs do take care duly to execute the same.

That according to the Statute of the twenty third Year of *Henry* the Sixth, (c) a Prisoner taken upon a *Capias* in Process, be not discharged till he hath given Bond to appear, unless the Plaintiff or his Attorney shall consent to take an Appearance without Bail. And in such Case the Warrant of Attorney to appear, to be subscribed or accepted by the Defendants Attorney, and such Warrant not to be revoked, and an Attachment to be granted against the Bailiff offending herein, or against the Attorney refusing to appear or procure an appearance, having so subscribed or accepted.

Sect. VII. *Concerning Ha' Cor' to Sheriffs and Gaolers.*

THAT a *Habeas Corpus cum Causa ad faciendum & recipiendum*, directed to any Sheriff (other than *London* or *Middlesex*) not to be returnable *immediate*, or in the Vacation Time, but at a Day certain in Court, in the Term, unless it be to deliver over to Prison in discharge of his Bail.

That such *Habeas Corpus* to the Sheriffs of *London* or *Middlesex* may be granted in Term, or Vacation Time returnable *immediate*.

That in case of *Habeas Corpus*, returnable *immediate*, the Sheriff ought to make his Return the same Day that the Writ is delivered, and to bring the Body immediately as is required by the Writ, without permitting him to wander abroad by colour or pretence thereof.

That where a Writ of *Habeas Corpus* is directed to a Sheriff, Warden of the Fleet or Gaoler, the Prisoner is to be brought in Custody according to the Writ at the Day limited, with-

out

(*) Stat. 2. *Geo.* II. cap. 23.

(b) Cap. 3.

(c) Cap. 10.

out being permitted to wander Abroad in the mean Time, under pretence of such Writ.

That a *Habeas Corpus ad respondendum* may be granted to the Warden of the Fleet, or the Keeper of an inferiour Prison of a Liberty or Franchise, returnable at a Day certain in Court, and to be a good cause of Detainer, as well as where a *Capias ad respondendum* comes to a Sheriff.

That a *Habeas Corpus ad satisfaciendum* may be granted to the Warden of the Fleet, or to such inferiour Gaoler returnable in Court at a Day certain, and the Number Roll of the Judgment to be endorsed upon the Writ by the Attorney who sues it out; and such Writs to be a cause of Detainer.

That if upon a *Habeas Corpus cum Causa*, the Prisoner be returned charged with Process out of the common Bench or Exchequer, though returnable at a Day to come, the Prisoner may be committed with those Causes.

That if upon a *Habeas Corpus*, or *Capi Corpus*, the Party be returned in Custody and Bailable, and special Bail requirable, the Bail not to be taken absolutely without consent of the Plaintiff or his Attorney; and if taken *de bene esse*, the Prisoner not to be discharged till the Bail be assented unto, or the Plaintiff over-ruled in Court to accept the same upon Examination.

SECT. VIII. Concerning Habeas Corpus to Inferiour Courts, and *Procedendo*.

THAT Writs of *Habeas Corpus*, directed to the Inferiour Courts of London, Westminster, Southwark, and other Courts within five Miles of London, may be returnable immediate. And if the Defendant intendeth to be Bailed, then upon, or within four Days after Allowance of the Writ, Notice is to be given in writing of the Names and Addition of the Bail, the Time when, and the Judge before whom the same is intended to be put in, to the Plaintiff or his Attorney, or him that caused the Plaint to be entred; or if none can be found, then Notice of the Premises to be left in writing with the chief Clerk of the inferiour Court, or his Deputy, by the Party that tenders the Bail or his Attorney, and Oath made thereof, otherwise the Bail not to be taken. And a *Procedendo* granted, if desired, before Bail accepted.

That if no Bail in such Cases be put in within eight Days after the *Habeas Corpus* allowed in those Courts when it is returnable immediate, a *Procedendo* may be granted by any Judge of the Court, if desired before Bail taken.

And if Bail be taken in the Absence of the Plaintiff or his Attorney, the same is to be taken *de bene esse*; and if no Exception be taken within 20 Days after Notice given to the Plaintiff or his Attorney, of the Names of the Bail,

and before whom taken, then upon Oath made of such Notice, the Bail to be delivered out to be filed.

That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber; and not excepted against, if not filed within four Days after the twenty Days, a *Procedendo* may be granted upon Certificate that it is not filed.

That in Term Time the Plaintiff in the inferiour Court may speed the Defendant to put in, or to file his Bail by Rules given; and if not filed according to Rules, upon Certificate thereof, a *Procedendo* to be granted.

SECT. IX. Concerning special Bail. (a)

THAT in all Causes of removal, be it by *Habeas Corpus*, Privilege, or *Certiorari*, special Bail ought to be given.

That upon a Cause removed, by *Habeas Corpus*, out of the Courts of Canterbury, Southampton, Hull, Litchfield or Pool, which are Counties where the Judges of *Nisi Prius* seldom come, if the Action be transitory, it must be laid in the County of Kent, Southampton, York, Stafford or Dorset, where the Town and County lieth.

That in Covenant because the Damages are uncertain, till Declaration, Bail at discretion.

That in Battery, Conspiracy, false Imprisonment, no special Bail of course, without special Motion and Order.

That in Slander no special Bail, except in Slander of Title, wherein to be left to the discretion of the Judges.

That in Privilege (other then for Fees or disbursements in Court, as an Attorney in this Court) Bail at discretion of the Court, in such Case where in a Suit by a common Person, special Bail is not requisite.

SECT. X. Concerning Appearances, and entering thereof.

THAT an Attorney of either Bench accepting a Warrant, or subscribing a Process, Declaration or Warrant to appear, be compelled to cause an Appearance, or liable to an Attachment, or put out of the Roll, as the Case requires; and the Party not to be received to countermand such Appearance after his Retainer.

That no Person without Rule of Court, Order of Judge or Prothonotary, and Notice to the adverse Party or his Attorney, change or shift his Attorney; and such Attorney newly coming in, to take Notice at his peril of the Rules whereunto the former Attorney was liable, had he continued.

That a Retainer of an Attorney of the Common Pleas, by an Attorney of the Upper Bench, &c *e converso*, be a sufficient excuse to the

[d] At

(a) Stat. 12 Geo. I. cap. 29.

Attorney so retained, acting according to such retainer; and the Attorney so retaining without Warrant from the Party, to be liable to punishment.

Sect. XI. Rules to Declare and Plead.

IF the Defendant be committed to the Prison of the *Marshalsea*, by the Process of this Court, the Prisoner giving Rules to declare and Notice thereof to the Plaintiff or his Attorney, and Oath thereof made, the Plaintiff not declaring before the end of the second Term after Commitment inclusively, then the Defendant in reference thereunto, to be discharged of the Imprisonment in the end of the second Term, upon common Bail.

And if any Defendant be committed to any other Prison, upon any Process of this Court, giving Rules and Notice, as before, and Oath thereof made; if the Plaintiff do not (a) remove the Prisoner, and declare before the end of the second Term after the Commitment inclusively, Then the Defendant in reference thereunto likewise to be discharged of the Imprisonment in the end of the second Term, upon common Bail.

Sect. XII. Concerning Declarations.

FOR avoiding of long and unnecessary Repetitions of the Original Writ in Actions upon the Case, and Personal Actions upon Penal Statutes,

That Declarations in Actions of Trespas upon the Case, or Personal Actions upon any general Statute, namely, *Hue and Cry*, *Monopolies*, or for a Suit in the Admiralty, and such like, other then Debt, repeat not the Original Writ, but only the Nature of the Action, viz. *A. B.* was attached to answer *C. D.* in a Plea of Trespas upon the Case, or in a Plea of Trespas and Contempt against the Form of the Statute.

For the avoiding of the Common Bar, and new Assignment,

The Declaration upon an Original *Quare Clausum fregit*, may mention the Place certainly, and so to prevent the Use and Necessity of the Common Bar and new Assignment.

Sect. XIII. That unnecessary Length of Declarations be reformed, and in Order thereunto.

THAT in Actions of Covenant, not to repeat more of the Deed than is necessary for the Assignment of the Breach, and not to repeat the Covenant in the conclusion.

In Actions of Slander long Preambles be forbidden, and no more Inducement than what is necessary for the Maintenance of the Action; but when it requires a special inducement, or colloquium.

That in Actions upon general Statutes, the Declaration not to repeat the Statute, but to conclude against the Form of the Statute, in such case made and provided; as in case of Debt upon the Statute of 2 *Ed. 6.* for Tithes, and 32 *H. 8.* for Maintenance, 21 *Jac.* of Monopolies.

That in Actions of Debt upon a Judgment had in the Courts at *Westminster*, to recite only the Judgment; but if a Judgment had by or against an Executor or Administrator, then the Action of Debt upon that Judgment, to repeat the Declaration and Judgment.

That the Plaintiff may amend his Declaration, paying Costs, or giving an Imparance at the Plaintiff's election, by the Order of Court, or a Judge, after it is entered, if the amendment be but a small Matter, that it doth not deface the Roll.

Sect. XIV. Concerning the entring of Rolls, and by whom.

THAT no Rolls be delivered to be entred but to the Prothonotaries Clerks.

That no Rolls be carried into the Country, under pain that the Offender be excluded from entring any more Rolls afterwards as a Clerk.

Sect. XV. Concerning Imparances upon Suits by Original.

FOrasmuch as some Inconveniences do sometimes happen to the Plaintiffs, by entring their Declaration in special Actions; It is therefore Ordered, That the Plaintiffs in such special Actions, shall have liberty to enter Imparances the Term following, entring the same of the first Term with an *Incipitur*, as it hath been usual; and that all other Imparances be duly entred before any Issues, Demurrers, or Judgments thereupon be entred.

That if a Defendant appear the first Term, and give no Rules to declare, the Defendant's Attorney may the second Term be compelled to accept a Declaration with an Imparance, and the Declaration may be entred as of that Term, with an Imparance over to the next Term, or in the first Term with an *Incipitur*, as before, as the Case shall require.

That if the Plaintiff declare not the second Term, though the Defendant give no Rules, yet a (b) *Nonfuit* may be entred at the end of the second Term, upon a continuance over by him, by *dies datus*, but not the third Term, or after.

Upon

(a) Stat. 4 & 5 W. & M. cap. 21.

(b) Stat. 13 Car. II. cap. 2. s. 2.

Upon a meer real Action, an Imparlance to be of course.

That in Ejectment, or any personal Action, if the Appearance be the first Return of *Hilary* or *Trinity* Term, no Imparlance without Consent or special Rule.

In Causes other than in *London* or *Middlesex*, if the Appearance be before *Crastinum Martini* or *Mensem Pasche*, no Imparlance without Consent, or special Rule; but if upon, or after those Returns, an Imparlance of Course. (a)

In *London* or *Middlesex*, if the Appearance be before *Crastinum Ascensionis*, or before the last Return of any other Term, no Imparlance without Consent or special Rule; but the Defendant to plead as of that Term, within fourteen Days after the end of the Term, upon Rule given to answer; but if of *Crastinum Ascensionis*, or the last Return, than an Imparlance of Course.

If a Writ be Returnable *Quinque Pasche*, or the last Return of any Term, the Defendant giving Rules, and calling for a Declaration, if it be not delivered four Days before the Essoin Day of the ensuing Term, or more, a Nonsuit to be entred. (b)

Secl. XVI. Concerning Pleading.

THE Common Bar and new Assignment to be forborn, where the certainty is contained in the Declaration, equivalent to a new Assignment.

That Pleadings be succinct, without unnecessary Repetitions.

That in the pleading of an Outlawry, the mean Process be not repeated, but the *Exigent*, and Outlawry joined to the commencing of the Suit.

That in pleading a general Statute, the Statute be not recited: As the Statute of 21 of King *James*, of Limitations.

Secl. XVII. Concerning Demurrers.

THAT according to the Statute of 27 (c) *Eliz.* upon Demurrers, the Causes be specially assigned, and not involved with general unapplied Expressions of double, negative pregnant, uncertain, wanting form, and the like; but to shew specially wherein, that the other Party may (as the Cause shall require) either join in Demurrer, or Amend, paying Costs, or discontinue his Action.

That it be declared, that matters of Form, as well on the Part of him that Demurs, as of him that joins in all Parts of the Pleading, are discharged, unless such as are specially assigned upon the Demurrer. (d)

Secl. XVIII. Concerning Trials and Notice of Trials and Inquiries.

IF the Plaintiff give Notice of a Trial, and he proceed not, the Plaintiff not to take it down to Trial again, without new Notice to be given, unless by Consent or Rule of Court.

That in case of such Warning, and no proceeding, the Defendant upon Motion, to have his Costs of his former Attendance, to be taxed by the Prothonotary; unless the Plaintiff give the Defendant warning in convenient time that he would not proceed; or shew Cause to be allowed in the Court in excuse of such Costs.

Secl. XIX. Concerning Trials at Bar.

THAT for the Remedy of excessive Charges of Trials at the Bar, especially whilst the Jury lieth out, It is Ordered, that a Jury lying out one Night after a privy Verdict delivered, there be allowed for the whole Dyet of each Jurymen that Night no more then 3 s. 4 d. a-piece, and for two Tipstaves and one Crier or Usher, to each of them no more than 2 s. Ordinary, besides the Charges of the Jurors Lodging.

Secl. XX. Concerning special Verdicts at the Bar, and by Nisi Prius.

IN finding of special Verdicts where the Points are single and not complicated, and no special Conclusion, the Council (if required) do subscribe the Points in Question, and agree to amend the Omissions of Mistakes in the mean Conveyance, according to the Truth, to bring the Point in Question to Judgment.

That unnecessary finding of Deeds *in hac verba*, where the Question rests not upon them, but are only derivation of Title, to be spared, and found shortly, according to the substance they bear in reference to the Deed, as Feoffment, Lease, Grant, &c.

Secl. XXI. Concerning new Trials.

THAT where a Verdict finds entire Damages, where Damages are the Principal, and part not Actionable, though Judgment be arrested, yet by Rule of Court a *Venire fac de novo*, may issue as upon an ill Verdict, and upon the new Trial the Party may sever his Damages.

(a) *Trin.* 5 & 6 *Geo.* II. *Mich.* 5 *Anno.*
(d) *Stat.* 4 & 5 *Anno.* cap. 16.

(b) *Stat.* 13 *Car.* II. cap. 2. *sect.* 2.

Secl.
(c) *Cap.* 5.

Sec. XXII. Concerning Judgments.

THAT upon a Cause removed by *Habeas Corpus* out of an inferior Court, having Jurisdiction of the Cause, if Judgment be given for the Plaintiff, the Costs below to be considered and cast into the Judgment; if for the Defendant, the Charges of putting in Bail.

That in a Judgment by *non sum Informatus*, or *nihil dicit*, in *Ejectione Firme*, the *Capiatur* be entered upon the first Judgment.

And lastly, It is Declared, That as the Court doth expect, that all the Rules and Orders before mentioned, shall be duly observed; and are resolved severely to punish such as shall break or neglect any of them. So it is further Declared, That all other former Orders and Rules yet in Force not hereby altered, suspended, or adouled, shall be likewise observed and put in Execution according to the true Intent and Meaning of the same.

By the Court.

Henry Rolle,
Richard Aske,
Richard Newdigate.

Easter, 1656.

Wednesday next after five Weeks of Easter, 1656.

IT is Ordered, That upon Notice given to any Clerk or Attorney of this Court to attend the Court upon any Motion to be made, and the said Clerk or Attorney shall neglect to appear in Court, according to Notice given as aforesaid, the said Clerk or Attorney shall pay for every such Offence, 10 s. to the Box. (a)

Trin. 1656.

Tuesday next after eight Days of the Holy Trinity, 1656.

I Whereas the Court is informed, that many Alias and Pluries Capias are often made by Attornies of the Common Pleas, Attornies at large, Solicitors and Under-Clerks of this Court, that are not sworn, when there hath been no Latitat formerly sued forth, or not within the Time

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limited in former Orders; by Reason whereof the Ministers and Officers of the Court are deceived of their Duties, and the Alias and Pluries Capias so made are never enter'd upon the Rolls, which are appointed for that Purpose; and the Common Bails are often put in, when the Plaintiff hath Cause to require good Bail, by which Means the Plaintiff loseth the Benefit of the Arrest: For the preventing of which Inconveniencies and Mischiefs,

It is Ordered, That every Clerk according to ancient Orders, shall upon the signing of every such Writ of Alias and Pluries Capias, and of every *Non omittas*, subscribe under the Alias, Pluries Capias, and *Non omittas*, the Term when the Latitat was sued forth, and shew his Titeling Book to him that is appointed to keep the Sign, when the Latitat issued forth; and that no Writ of Alias, Pluries Capias, and *Non omittas* in Term-Time, be signed before a Note be delivered in, subscribed the Term when the Latitat was sued forth for the Entering of the same; and that in the Vacation Time, the Clerks do enter every such Writ before it be signed. And it is further Ordered, That the Prothonotaries, or one of them, do every Term send for the Under-Sheriffs of every County, City, Town and Village, within this Common-wealth, and cause the said Sheriffs, and every of them, to bring before them all Latitats, Alias, Pluries Capias, and *Non omittas*, sued forth of this Court, and delivered to them; to the end the same may be perused, viewed and examined by the Prothonotaries, or one of them, whether they be duly sued forth and signed or not.

And it is further Ordered, That all the said Sheriffs do attend the Prothonotaries with their Writs, upon every Summons according to their Summons. And it is also Ordered, That the Keeper of the Seal for the Writs issuing out of the Court of Upper Bench, for the better Prevention of the aforesaid Miscarriages, according to ancient Orders, do not seal any Writ of Latitat, Alias, Pluries Capias, *Non omittas*, *Elegit*, *Habeas Corpus*, *Procedendo*, *Certiorari* or *Superfedeas* issuing out of the said Court, unless the same Writ be first signed with the Sign and Stamp appointed by the Court for that Purpose. (b)

Trin. 1656.

Wednesday next after fifteen Days of the Holy Trinity, 1656.

Records in the Treasury.

IT is Ordered, That Mr. Paget, Clerk of the Treasury, shall appoint one to attend in the Treasury aforesaid, whereby the Clerks

(a) Farther enforced 14 Car. II.

(b) See Easter 15 Car. II. reg. 1.

Clerks of this Court may have Access to search the Records according to ancient Custom.

the same be filed before the Effoin Day of the Term following. (b)

Easter, 1657.

Wednesday next after fifteen Days of Easter, 1657.

Docketing Judgments.

I. **I**t is Ordered, That the Defendants Names in all Judgments that shall be entered in this Court, as of this Term, or hereafter, shall be entered in a Remembrance or Docket Alphabetically, for the better finding out the said Judgments. (a)

Easter, 1657.

Saturday next after fifteen Days of Easter, 1657.

Filing Bails.

II. **F**OR the Preventing of many Inconveniences which daily happen to the Plaintiffs by the Defendants omitting the filing Common Bails, according to the ancient Usage and Course of the Court.

It is Ordered, That all Clerks of the Office, Philizars and Attorneys at large, do within ten Days after the end of every Term, deliver to the Secondary, a Note of all such Appearances as have been made unto them the Term before, and by whom they were made; so that he that is appointed to enter the Bails, may see whether Bails be filed for every such Appearance or not.

And it is likewise Ordered, That no Clerk, Philizar or Attorney, do deliver any Declaration of this Court to any Solicitor, or other Person but to the Clerks, Philizars and Attornies at large of this Court, upon Pain to forfeit for the first Offence 10 s. and for every other Offence 20 s.

Easter, 1657.

Friday in the Morrow of the Ascension of our Lord 1657.

Entering Issues.

III. **I**t is Ordered, That all Issues joined shall be entered upon the Roll before the Record of *Nisi prius* be made; and that

Hillary, 1657.

Tuesday next after fifteen Days of St. Hillary, 1657.

Rolls. Paper-Books. Postes.

Imprimis, **I**t is Ordered, That according to the ancient Usage and Custom of the Court, none be permitted to enter any Causes or Judgments upon the Prothonotaries Rolls, but the Prothonotaries or their Clerks to whom the Entering thereof doth of Right belong; and that all the Rolls be entered in a full fair Hand, with a large Margent of an Inch at least, and a convenient Distance at the Top, for the Binding up of the same; and at the Bottom, that the Writing be not rubbed out.

Item, That none be suffer'd to have Access unto the Rolls or Records, Files of Declarations, Writs or Bails, but Clerks of the Office, or Philizars, who may be answerable for any Misdemeanours which shall be objected against them.

Item, That none do deliver any Copies of special Verdicts or Demurrers to the Justices of this Court, but the Clerks of the Office, who ought to copy and deliver them, and are to examine them, and see they be true, and be answerable for any Mistake in the same.

Item, That no Postes be delivered out of Court to any Person whatsoever, but to the Prothonotaries or their Clerks, or to the Philizars of this Court, who may be answerable for the same, in case any Complaint shall be objected against them.

Item, That if any Clerk of the Office shall permit or suffer any other whatsoever to write or set his Name to any accountable Writ or Writs that are to be signed, or to any other Writ that belongs to the Prothonotaries of this Court, and their Clerks, to make, but such as shall be written by the Hand-writing of the said Clerk, or his Servant; that he or they shall for the first Offence in that Kind forfeit 20 s. and for the second Offence shall be expelled out of the Office.

[c]

Easter,

(a) East. 17 Ja. I.

(b) See Mich. 5 Ann. reg. 1. Hil. 1649. Trin. 17 Ja. II.

Easter, 1658.

Monday next after the Morrow of the Ascension of our Lord 1658.

Entering Causes.

IT is Ordered by the Court, That the ancient Rule of the Court be reviv'd, and henceforth duly observed, that all Causes depending in this Court to hear Counsel, or the Resolutions of the Court remaining undetermin'd in any Term, which ought to be entered into the Court-Book kept by the Clerk of the Papers, be entered into the said Book within seven Days after the End of that Term, to be heard the next Term following, if any of the Parties intend then to proceed, to the End that the Clerk of the Papers, in convenient Time after such Entry, may deliver to every of the Justices of the said Court, a Paper of the said Causes; otherwise the said Causes not to be receiv'd to be enter'd into the said Book, without Motion therefore to be made in Court.

Easter, 1659.

Friday next after a Month of Easter, 1659.

Sealing Writs.

FOrasmuch as the Court is inform'd, That many Writs of Capias ad satisfaciendum, and Testatum Capias ad satisfaciendum, Writs of Fieri facias, and Testatum Fieri facias, and many Times Testatum Capias ad satisfaciendum, and Testatum Fieri facias, without any Capias or Fieri facias first made and returned, are oftentimes unduly made by Attorneys and Under-Clerks and Solicitors that are not sworn; by which Means the Plaintiff is put to unnecessary Charges; and the Defendant being arrested, is discharged upon a Superfedeas quia erronee; and afterwards the Defendant absenteeth himself, or eloineth his Goods, that Execution cannot be made, whereby the Plaintiff loseth his Debt.

It is therefore Ordered, That no Writ of Capias ad satisfaciendum, or Testatum Capias ad satisfaciendum, or Fieri facias, or Testatum Fieri facias be sealed before the same be signed with the Latitat Sign, upon Pain of 20 s. And it is further Ordered, That the Clerk, that keepeth the Latitat Sign, shall not sign any Writ of Capias ad satisfaciendum, or Testatum Capias ad satisfaciendum, or Fieri facias, or Testatum Fieri facias, unless they be brought to him to be signed by the Clerk of the Office, whose Name is to the same Writ, or

his known Servant; and no Fee is to be taken for the Signing the same.

RULES and ORDERS OF THE Court of King's Bench.

Die Martis prox'
post Tres Sept'
S. Trin. Anno
13 Car. II. Re-
gis.

Trin. 13 Car. II.
1661.

Filing Bail.

ORdinatum est quod quilibet Attorn' hujus Cur' qui imponit aliquod Ballium per Recognitionem coram Capital' Justic' seu aliquo al' Justic' Cur' hic & quer' vel ejus Attorn' hujusm' Ballium acceperit qu' tunc Attorn' qui imponit hujusm' ballium id ballium affilari causabit infra viginti dies post talem acceptionem sub pena 40 s. Et quod omnia ballia modo capta de bene esse & que acceper' sunt per Attorn' quer' & nunc remanent cum aliquo Justic' hujus Cur' similiter affilantur infra viginti dies nunc prox' sequen' sub consimili pena 40 s.

IT is Ordered, That every Attorney of this Court who shall put in any Bail by Recognizance before the Chief Justice or any of the other Justices of this Court, and the Plaintiff or his Attorney shall accept of such Bail, that then the Attorney who puts in such Bail shall cause that Bail to be filed within twenty Days after such acceptance under the Penalty of 40 s. and that all Bails now taken de bene esse and which are accepted by the Plaintiff's Attorney and now remaining with any Judge of this Court, shall likewise be filed within twenty Days now next following, on the like Penalty of 40 s. (a)

Die Jovis prox'
post Mens' Sancti
Mich' Anno
13 Car. II. Re-
gis.

Mich. 13 Car. II.
1661.

Seal Office.

CUM ex querel' Clericor' Capital' Cler' hujus Cur' & eorum

Whereas at the Complaint of the Clerks of the Chief Clerk of this Court and

(a) See the Rules Mich. 16 Car. II. Easter, 29 Car. II. — 5 W. & M. 1692, & Mich. 8 Ann.

rum Clericor' Cur' hic datur intelligi & informari & cum secundum usum & consuetudinem Cur' hic de antiquo usitat' Custodes sigilli Dom' Regis pro Cur' hic allocaverunt & allocari consueverunt & debuerunt cuilibet Clerico Capital' Cleric' hujusm' Cur' & cuilibet Clerico hujusm' Cleric' ad finem cujuslibet Termin' sigillation' unius brevis gratis sine aliquo inde solvend' nomine Je vous Prie, quodque hujusm' allocatio per hujusm' Custodes sigilli præd' nuper negat' & detent' fuit.

Ordinal' est quod Allocatio præd' Clericis præd' secund' antiquum usum Cur' hic de futuro allocatur per Custodes sigilli Dom' Regis pro Cur' hic nisi Custodes sigilli præd' ostenderent causam in contrari' die Lunæ prox' post Crastin' Animar'.

and their Clerks, this Court is given to Understand and informed, that whereas according to the Use and Custom of this Court antiently used, the Keepers of the Seal of our Lord the King for this Court have allowed, and used and ought to allow to every Clerk of the chief Clerk of this Court, and every Clerk of such Clerk at the End of every Term, the Sealing of one Writ gratis without any thing to be paid for the same, by the Name of Je vous prie, and that such Allowance by such Keepers of the Seal aforesaid hath been lately denied and detained;

It is Ordered, That the Allowance aforesaid to the said Clerks according to the ancient Use of the Court here for the future be allowed by the keepers of the Seal of our Lord the King for this Court, unless the said Keepers of the Seal shall (a) shew Cause to the contrary on Monday next after the Morrow of All-Souls.

Die Lune prox'
post Mens' Pasch.
Anno 14 Car. II.
Regis.

Easter, 14 Car. II.
1662.

Motions in Court.

O Rdinatum est per Cur' quod quilibet Clericus & Attorn' hujus Cur' super noticiis dat' ad attend' aliquam motionem in Cur' attend' hujusm' motionem in Cur' secund' notici' sub pena forisfaciend' decem solid' solvend' per hujusm' Cleric' & Attorn'.

It is Ordered by the Court that every Clerk and Attorney of this Court upon Notice to them given to attend any Motion in Court, shall attend such Motion in Court according to Notice, under the Penalty of forfeiting 10 s. to be paid by such Clerk and Attorney. (b)

Die Martis prox'
post Octab. Sanctæ Trin. Anno
14 Car. II. Regis.

Trin. 14 Car. II.
1662.

Ejectment.

O Rdinatum est per Cur' quod in qualibet Actione de placito transg' & ejection' firmæ fore prolat' si terra jacent in Comit' Midd' tunc billa de Midd' prosecut' fuerit & si terra jacent extra Midd' tunc bre' de Lat' prosecut' fuerit versus casual' Ejector' in qualib' tali ejectione defend' nominat' Ac etiam quod commune ballium pro tali defend' affilietur antequam aliqua declaratio per billam in hujusm' Actione deliberat' fuerit alicui tenenti in possession' tenementor' in hujusm' Narr' specificat'. Et quod si Attorn' hujus Cur' pro quer' defecerit in performance inde, tunc nullum judicium intretur pro quer' versus casual' Ejectorem nec tenens in possession' cogn' dimission' intration' & ejection' tenementorum in tali Narr' mentionat', ad triand' Exit' inter partes prædict'.

It is Ordered by the Court that in every Action of a Plea of Trespass and Ejectment to be brought, if the Lands lie in the County of Middlesex, then a Bill of Middlesex shall be sued out, and if the Lands lie out of Middlesex, then a Writ of Latitat shall be sued out against the casual Ejector in every such Ejectment named Defendant. And also that common Bail shall be filed for such Defendant before that any Declaration by Bill in such Action shall be delivered to any Tenant in Possession of the Tenements in such Declaration specified. (c) And that if an Attorney of this Court for the Plaintiff shall make Default in the Performance thereof then no Judgment shall be entered for the Plaintiff against the casual Ejector, nor shall the Tenant in Possession Confess Lease, Entry and Qufter of the Tenements in such Declaration mentioned to try the Issue between the Parties aforesaid. (d)

Die Mercurii prox'
post Tres Sept'
Sanctæ Trin.
Anno 14 Car. II.
Regis.

Trin. 14 Car. II.
1662.

Attorneys.

O Rdinatum est per Cur' quod omnes Attorn' hujus Cur' comparebunt in Cur' in eorum propri' personis super vel ante decimum quartum diem Termin' Sancti Michaelis & super

It is Ordered by the Court that all Attorneys of this Court shall appear in Court in their proper Persons upon or before the 14th Day of the Term of Saint Michael, and upon or before

(a) Note: It does not appear that any Cause was shewn.

(b) Easter, 1656.

(c) Mich. 33 Car. II. Trin.

(d) Note: It has been lately held that there is no Necessity for a Bill of Middlesex or a Latitat, where the casual Ejector files common Bail, for his being admitted up to Bail implies he was once a Prisoner, and whether he came into Court regularly by Latitat or not, yet the Judgment is not coram non Judice. See the Stat. 4 & 5 Ann.

per vel ante septimum diem cuiuslibet al' Termini sub pœna forisfaciend' pro primo defalt' 10 s. & pro 2º secundo defalt' 20 s. Et quod quilibet Attorn' intrat' fuerit in Officio hujus Cur' omnia placita & Morationes in Lege infra tres Dies post finem cuiuslibet Termini. Et quod nullæ Regulæ fact' fuerint per aliquem Justic' Cur' Domini Regis coram ipso Rege in aliqua Actione in dict' Cur' penden' post tertium diem prox' post finem alicujus Termini. Et quod null' Attorn' dict' Cur' attend' aliquem Justic' præd' ad faciend' aliquas Regulæ post tertium diem prox' post finem alicujus Termini. Et quod null' Regulæ fact' fuerint peremptorie Attorn' post tertium diem post finem alicujus Termini. Et quod omnes Regulæ fact' post tertium diem post finem alicujus Termini vacuæ forent.

fore the 7th. Day of every other Term, under the Penalty of forfeiting for the first Default 10 s. and for the second 20 s. And that every Attorney shall enter in the Office of this Court all Pleas and Demurrers in Law within three Days after the end of every Term, and that no Rule shall be made by any Justice of the Court of the Lord the King before the King himself in any Action in the said Court pending, after the third Day next after the end of any Term. And that no Attorney of the said Court shall attend any of the said Justices to make any Rules after the third Day next after the end of any Term, and that no Rules shall be made peremptorily to attend after the third Day after the end of any Term and that all Rules made after the third Day after the end of any Term shall be void.

Die Martis in
Crastino Purifi-
cationis beate
Mariæ Anno 15
Car. II. Regis.

Hil. 15 Car. II.
1662.

Attorneys.

I. **O**rdinatum est quod quilibet Attornat' huj' Curie personaliter attend' Magistrum Jebyll ad tempora per ipsum præfixenda super Notic' inde eis dat' ad examinand' Causas coram ipso in Referenc' existens. Et quod quilibet Attorn' qui defalt' inde fecerit pro qualibet defalt' forisfaciet decem solid'.

I. **I**t is Ordered that every Attorney of this Court personally attend Master Jebyll at Times by him to be prefixed upon Notice thereof to them given, to examine Causes that shall be in Reference before him; And that every Attorney who shall make default therein for such Default shall forfeit 10 s.

Die Jovis prox'
post Octab' Pur'
beate Mariæ
Anno 15 Car. II.
Regis.

Hil. 15 Car. II.
1662.

II. **O**rdinatum est per Cur' quod nullum bre' de alias vel plur' Distring' Jur' cum Tales pro triatione Exit' ad Barr' emanat' fuerit priusquam præcedens breve de Distring' Jur' cum pannello de nominibus Jur' adinde annex' deliberetur Secundario hujus Cur' ad intentionem quod Exitus forisfacti per Jur' pro eorum non comparentia super dicto præceden' brevi debito modo extrahantur.

Distringas Jur'.
II. **I**t is Ordered by the Court, that no Writ of Alias or Pluries Distringas Juratores with a Tales for a Trial of an Issue at Bar, shall issue before the Precedent Writ of Distringas Jur' with a pannel of the Names of the Jurors annexed thereto, be delivered to the Secondary of this Court, to the Intent that the Issues forfeited by the Jurors for their Non-appearance upon the aforesaid foregoing Writ may be duly Etitreated.

Easter, 15 Car. II. 1663.

Die Mercurii prox' post Tres Sept' Pasc' Anno
15 Caroli II. Regis.

Sealing Writs.

I. **I**t is Ordered by the Court, That the Keepers or Deputy-Keepers of the Seal, appointed for Sealing of Writs issuing out of this Court of King's Bench, or any of them, shall not seal, nor suffer to be sealed, any Writ or Writs of Latitat, Habeas Corpus, Subpana, Scire facias, or other signable Writs issuing out of the said Court, unless the same Writs respectively be first signed with the Sign of the said Court, kept by the Clerk appointed for that Purpose. (a)

Easter, 15 Car. II.

Die Veneris in Cro' Ascen' Domini Anno
15 Car. II. Regis.

Prisoners.

II. **I**t is Ordered by the Court, That no Bailiff nor Sheriff's Officer shall presume to exact or take from any Person, being in his Custody by Arrest, any Warrant to acknowledge.

* Quere Attend'.

(a) Hil. 1656.

knowledge a Judgment, but in the Presence of an Attorney for the Defendant, which Attorney shall then subscribe his Name thereunto, which said Warrant shall be produced when the said Judgment shall be acknowledged. And if any Bailiff or Sheriff's Officer shall hereafter offend, or do contrarywise, he shall be severely punished for so doing. And it is further Ordered, That no Attorney shall from henceforth acknowledge or enter, or cause to be acknowledged or entered, any Judgment, by Colour of any Warrant gotten from any Defendant being under Arrest, otherwise than as is aforesaid.

Die Lunæ prox' post Crastin' Ascen' Dom'
Anno 15 Caroli II. Regis.

III. **I**t is Ordered, That if any Clerk of the Office do not make his Account with the Secondary within ten Days after the End of *Hillary* Term, within six Days after the End of *Easter* Term, within ten Days after the End of *Trinity* Term, and within eight Days after the End of *Michaelmas* Term, according to the ancient Custom; every Clerk so offending shall for the first Offence be suspended from his Privilege of Practice as a Clerk of the Office, until he hath made his Account, and paid the Money due thereupon: And for the second Offence, at the Discretion of the Chief Clerk or Secondary, to suffer Expulsion. (a)

Easter, 15 Car. II.

Sheriffs Deputies.

IV. **I**t is Ordered, That every Sheriff shall make, and cause to be entered on Record, a sufficient Deputy to receive all manner of Writs and Process, under the Pains and Penalties mentioned in the Statute in that Behalf, made in the 23d Year of the Reign of the late King *Henry* the Sixth (b); which Law shall from henceforth be duly put in Execution.

And it is further Ordered, That the said Sheriffs, or their sufficient Deputies, shall give their personal (c) Attendance in *Westminster Hall* daily in the Term-Time, that so they may with the more Convenience dispatch those Services which appertain to their Offices respectively. And that no Sheriff nor Sheriff's Deputy, shall deliver or make, nor cause or suffer to be deliver-

ed or made, (d) any Warrant or Warrants before the Writ or Writs be duly sued forth and delivered to the said Sheriffs or their Deputies respectively. Neither shall the said Sheriffs or their Deputies deliver, nor cause or suffer to be delivered, any Blank Warrants; nor shall any Clerk or Attorney of this Court receive, or procure to be made, any such Blank Warrants, upon Pain of severe Punishment, and Fine, to be imposed upon the said Sheriffs and their Deputies, and utter Expulsion of the said Clerks or Attornies respectively offending in the Premises.

Die Mercurii prox'
post Tres Septi-
manas Sanctæ
Trin. Anno 15
Caroli II. Regis.

Trin. 15 Car. II.
1663.

I. **O**rdinatum est per Cur' quod in qualibet actione Transf' & Ejectione firmæ ubi per Regulam Cur' Legendens cogn' Dimissionem Intrationem & Ejectionem pro tant' præmissor' in narratione mentionat' quant' sunt in possessione dicti Defenden' aut Sub-tenentium suor', Attorn' ejusdem Defenden' pro- tinus deliberabit At- torn' Queren' certam notam in scriptis de Tenementis sic in possessione dicti Defend' aut Sub-tenentium suor' existen'.

Ejection.
I. **I**t is Ordered by the Court that in every Action of Trespass and Ejection where the Defendant by the Rule of Court, shall confess Lease, Entry and Ouster, for so much of the Premises in the Declaration mentioned as are in the Possession of the said Defendant or his Under-tenants, the Attorney of such Defendant shall immediately deliver to the Plaintiff's Attorney a certain Note in Writing of the Tenements so being in the Possession of the said Defendant or his Under-tenants.

Eodem Die.

The same Term,
1663.

II. **O**rdinatum est per Cur' quod nullum Recordum de Nisi prius pro Triations Exit' ad Assisas sigilletur post suum unius mensis prox' sequen' Clausum Termini.

Records of Nisi Prius.
II. **I**t is Ordered by the Court that no Record of *Nisi prius* for the Trial of an Issue at the Assises be sealed after the end of one Month next after the end of the Term. (e)

[f]

Die

(a) Note: All Rules for accounting with the Secondary are now of no Use, because the Clerks of the Office pay for their Entries upon Signing their Judgments, or Sealing their Records. See Trin. 20 Car. II. (b) Cap. 10. (c) Hil. 21 & Ea. 23 Car. I. (d) Stat. 6 Geo. I. c. 21. (e) Trin. 31 Car. II. East. 7 Geo. I.

infra octo dies prox' post finem cujuslibet Terminii Sancti Michaelis, & infra decem dies prox' post finem cujuslibet Terminii Sancte Trinitatis & Sti. Hillarii secund' antiquam consuetud' & separales priores Regulas hujus Cur'. Et qd' quilibet Clericus impostum offendens in premissis pro prima offensa suspendatur a privilegio practicationis sue quodq' nulla brevia nomine suo signentur nec Rotuli de intrationibus suis in officium recipiantur quousq' Comp'm suum reddidit & denar' superinde debiti solverit. Et qd' pro secunda offensa in premissis expungatur e Rotulo Clericorum hujus Cur' ad discretionem Capitalis Clerici vel Secundar' hujus Cur'. (a)

Hil. 15 & 16 Car. II. 1663.

Trials.

II. **O**rdinatum est per Cur' qd' Exitus junct' de aliquo procedente termino triat' fuerint infra primam Septimanam cujuslibet Terminii: Et qd' Custos Brevium hujus Cur' non sigillabit aliquod Recordum de Nisi prius talem Exit' post Septimanam cujuslibet Terminii absque special' licent' Capitalis Justiciarii hujus Curie: Et alterius Ordinatus est qd' Nisi Cause triand' apud London & Midd' intrat' fuer' cum Capital' Justic' hujus Cur' per spacium duorum dierum ante Sessionem super qua tal' Cause triand' sunt, Marshal' potest intrare Ne recipiatur ad instantiam defendentis sine ejus Attorn.

II. **I**t is Ordered by the Court, that Issues joined of any preceding Term shall be tried within the first Week of every Term, and that the Custos Brevium of this Court shall not seal any Record of Nisi prius of such Issues after one Week of every Term without the special Licence of the Chief Justice of this Court. (b)

And it is further Ordered that unless the Causes to be tried at (c) London and Middlesex be entered with the Chief Justice of this Court by the space of two Days before the sittings upon which such Causes are to be tried, the Marshal may enter a Ne Recipiatur at the Request of the Defendant or his Attorney.

Die Lune prox' post Crastin' Ascens' Domini Anno 16 Caroli II. Regis.

Easter, 16 Car. II. 1664.

Prisoners.

I. **O**rdinatum est per Cur' qd' quilibet Attorn' hujus Cur' qui exonerabit aliquem Prisonar' onerat' cum aliqua Actione hic in

I. **I**t is Ordered by the Court that every Attorney of this Court, who shall discharge any Prisoner, charged with any Action

Cur' pendens extra Prisonam pro defectu prof. infra tres Terminos dabit notitiam Quer' in eadem Actione vel ejus Attorn' ad comparandum coram aliquo Justic' hujus Cur' ad ostendendum causam quare hujusmodi Prisonar' exonerari non debet pro defectu prosecutionis priusquam procurabit aliquod warrantum sub manu aliquus Justic' hujus Cur' pro exoneracione hujusmodi prisonar' extra Prisonam. Et si Quer' in eadem Actione vel ejus Attorn' super hujusmodi notitiam eis vel eorum alteri inde dat' non comparebit ad ostendendum causam in contrarium tunc super Sacramentum prestandum hujusmodi notitiae, hujusmodi prisonar' versus quem nulla prosecutio fuit infra tres Terminos tunc prox' procedent' exoneretur extra Prisonam ad periculum Attorn' qui procurabit hujusmodi prisonar' in forma preda' exonerari.

here in Court pending, out of Prison for want of Prosecution within three Terms, shall give Notice to the Plaintiff in such Action or his Attorney, to appear before some Justice of this Court, to shew Cause why such Prisoner ought not to be discharged for want of Prosecution before he shall procure any Warrant under the Hand of any Justice of this Court for the discharge of such Prisoner out of Prison. And if the Plaintiff in the same Action or his Attorney, upon such Notice to them or either of them thereof given, shall not appear to shew Cause to the contrary, then upon Oath made of such Notice, such Prisoner, against whom no Prosecution hath been within three Terms then next preceding, shall be discharged out of Prison, at the Peril of the Attorney who shall procure such Prisoner to be discharged in form aforesaid. (d)

Eodem Die. The same Day 1664.

Error.

II. **O**rdinatum est per Cur' qd' quilibet Attorn' hujus Cur' qui prosecut' fuit aliquod breve de Errori super aliquo Judicio in Cur' Domini Regis coram ipso Rege obtento retornabit in Cur' Camera Scaccarii allocabit hujusmodi breve de Errori cum Clerico Errorum hujus Cur' infra quatuor dies prox' post notitiam dat' Attorn' Quer' hujusmodi brevis de Errori sic per ipsum prosecut' actionem Recogn' super hujusmodi breve de Errori cognitionem

II. **I**t is Ordered by the Court, that every Attorney of this Court who shall prosecute any Writ of Error upon any Judgment obtained in the Court of our Lord the King, before the King himself, returnable in the Court of Exchequer Chamber, shall allow such Writ of Error with the Clerk of the Errors of this Court within four Days next after Notice given to the Plaintiff's Attorney of such Writ of Error so by him sued out, and also shall put in Bail upon such Writ of Error

(a) The Practice in this Case is altered, as is mentioned before, East. 15 Car. II. reg. 1. Hil. 20 & 21 Car. II. M. see Trin. 2 Geo. I.

(c) Within the Term. See Mich. 4 Ann.

(d) Easter, 5 W. & M. Trin. 9 W. &

tionem infra quatuor dies prox' post allocationem hujusmodi brevis de Errori (si Recogn' inde cognosci debet) vel in defectu inde executio fiat super hujusmodi Judicio, brevi de Errori in forma præd' prosecut' non obstat.

Error within four Days next after the Allowance of such Writ of Error (if Bail thereon ought to be acknowledged) or in Default thereof Execution may be taken out upon such Judgment notwithstanding the Writ of Error sued out in form aforesaid. (d)

qd' talis Attorn' vel Clericus expellatur, e Cur' hic secund' priorem Regulam peremptor' & general' fact' in consimili casu per Cur' in plena Cur' Die Mercur' prox' post tres Septiman' Sta' Trin' Anno Regni Domini Jacobi nuper Regis Angliæ, &c. Secundo, &c.

Court here according to the Rule in that behalf made Trin. 2 Jac. 1. (b)

Die Mercur' prox' post Tres Sept' Sta' Trin. Anno 16 Car. II. Regis.

Trin. 16 Car. II.
1664

Special Pleas.

Ordinatum est per Cur' in plena Cur' qd' nullus Attorn' seu Clericus attenden' hic in Cur' præsumat deliberare alicui al' Attorn' vel Cleric' attenden' hic in Cur' vel alicui al' person' vel accipere ab aliquo al' Attorn' vel Clerico attend' in Cur' hic vel aliqua al' person' aliquod placitum imponen' in Officium Cleric' Papir' vel copiam hujusmodi placiti priusquam hujusmodi placitum imposit' fuerit in eodem Officio Cleric' papir'. Et quod talis Copia postquam hujusmodi placitum imponetur fact' fuit per Clericum in prædict' Officio Cleric' attenden' sub manu unius Clericorum ibidem attenden' sub pena qd' quilibet Attorn' seu Clericus in Cur' hic attend' foris faciet pro prima offens. sua sic commissâ decem solid' solvend' Pixidi ad usum Pauperum: Et pro secunda offens. sua sic commissâ viginti solid' solvend' similiter Pixidi ad usum Pauperum: Et pro tertia offens. sua sic commissâ.

It is Ordered by the Court in full Court, that no Attorney or Clerk attending here in Court, presume to deliver to any other Attorney or Clerk attending here in Court, or to any other Person, or to accept from any other Attorney or Clerk attending here in Court, or from any other Person, any Plea that ought to be left in the Office of the Clerk of the Papers, or a Copy of such Plea, before such Plea be left in the same Office of the Clerk of the Papers, and that such Copy after such Plea is left shall be made by the Clerk attending in the aforesaid Office of the Clerk of the Papers and signed under the Hand of one of the Clerks attending there, under the Penalty that every Attorney or Clerk attending here in Court for the first Offence so committed shall forfeit 10s. to be paid to the Box to the use of the Poor, and for the second Offence committed 20s. in like Manner to be paid to the Box for the use of the Poor; and for his third Offence such Attorney or Clerk shall be expelled from the

De Termino Sti Michaelis Anno 16 Car. II. Regis.

Mich. 16 Car. II.
1664

Bail, Common (c) and Special.

Ordinatum est per Cur' qd' quilibet Attorn' hujus Cur' qui comparebit pro aliquo Defend' in aliqua Actione in qua speciale Ballium non requiritur affilabit commun' Ballium pro hujusmodi Defend' infra sex dies prox' post finem ejusdem Termin' de quo conperuit: Et qd' quilibet Attorn' hujus Cur' qui imponeret aliquod speciale Ballium coram aliquo Justic' hujus Cur' de bene esse super Capi Corpus dabit notitiam inde indilate Quer' vel ejus Attorn'. Et si quer' non calumpniabit Ballium illud pro insufficienc' inde infra viginti dies prox' post notitiam ei vel ejus Attorn' inde datam, tunc super Sacramentum præstit' in scriptis hujusmodi notitiæ in dorso ejusdem Ballii (pro quo Sacramento nullum feudum capi fuerit) Ballium illud affilabitur per Attorn' Defend' infra quatuor dies prox' post finem præd' viginti dierum. Et quod quilibet Attorn' hujus Cur' qui imponeret aliquod speciale Ballium coram aliquo Justic' hujus Cur' de bene esse super brevi

It is Ordered by the Court that every Attorney of this Court, who shall appear for any Defendant in any Action in which special Bail is not required, shall file common Bail for such Defendant within (d) six Days next after the end of the same Term of which he appeared.

And that every Attorney of this Court who shall put in any special Bail before any Justice of this Court de bene esse upon a Capi Corpus shall give Notice thereof without delay to the Plaintiff or his Attorney, and if the Plaintiff shall not (e) except to that Bail for Insufficiency thereof, within 20 Days next after Notice thereof given to him or his Attorney, then upon Affidavit in writing of such Notice on the Back of the said Bail-piece (for which Affidavit no Fee shall be taken) that Bail shall be filed by the Defendants Attorney within four Days next after the end of the aforesaid twenty Days.

And that every Attorney of this Court, who shall put in any special Bail before any Justice of this Court de bene esse upon a Writ of Habeas

(a) See Easter, 36 Car. II. Mich. 5 W. & M.

(c) See Trin. 4 W. & M. reg. 2.

(d) Where the Defendant is served with a Copy of the Process he is to file common Bail in eight Days after the return, or the Plaintiff may file it for him, Stat. 5 Geo. II. cap. 27. 12 Geo. I. cap. 29. Mich. 10 Geo. II. reg. 2.

(e) Mich. 8 Ann. reg. 2. Easter, 5 Geo. II.

(b) Further enforced, Mich. 2 W. & M. and see the Note there.

brevi de Ha' Cor' si quer' non calumpniabit Ballium illud pro insufficiens inde infra viginti & octo dies post impositionem inde tunc Ballium illud affilabitur per Attorn' Defend' infra quatuor dies prox' post finem viginti & octo dierum sub pena qd' quilibet Attorn' defals facien' vel in non dando notitiam ut prædictum est vel in non affilatione separa' Ball' præd' vel eorum alicujus in forma præd' forisfaciet & solvet pixidi hujus Cur' pro primo delicto suo Summ' quinq; solidorum, & pro secundo delicto suo expungetur e Rotulo Attorn' hujus Cur'.

Et ulterius ordinat' est ea intentione qd' Ballia præd' debui' affilantur qd' Clerici Justic' hujus Cur' in quorum manibus Ballia sic cap' de bene esse remanebunt infra sex dies prox' post finem ejuslibet Termini dabunt notam in scriptis Secundario hujus Cur' omnium Ball' de Terminis præceden' sic imposu' & in eorum manibus tunc remanen' una cum nominibus Attorn' qui Ballia illa imposuerunt & die impositionis eorundem.

beas Corpus, if the Plaintiff shall not (a) except to that Bail for Insufficiency thereof within 28 Days after the putting in thereof, then that Bail shall be filed by the Defendant's Attorney within four Days next after the end of the 28 Days, under the Penalty that every Attorney making Default either in not giving Notice as is aforesaid, or in not filing the several Bails as is aforesaid, or either of them in Form aforesaid, shall forfeit and pay to the Box of this Court for his first Default 5 s. and for his second Default shall be struck out of the Roll of the Attorneys of this Court. (b)

And it is further Ordered, to the Intent that the Bails aforesaid may be duly filed, that the Clerks of the Justices of this Court, in whose Hands the Bails so taken *de bene esse* shall remain, shall within six Days after the end of every Term give a Note in writing to the Secondary of this Court of all Bails of the foregoing Term so put in and then remaining in their Hands, together with the Names of the Attorneys who put in those Bails, and the Day of putting them in.

liqua causa hic in Cur' jam pendens vel postea prosequenda recepti fuerint per Clericos Papir' hujus Cur' antequam hujusmodi placita vel morationes in lege signat' fuerint manu propria alicujus Conciliar' in ea parte retent' ;

Et ulterius ordinat' est qd' Clerici Papir' hujus Cur' in omnibus Copiis placitorum & Libris papir' per ipsos faciend' subscribant hujusmodi Copiis placitorum & libris papir' nomina Concil' qui signaverint hujusmodi placita tam ex parte quer' quam ex parte Defend'. Et qd' omnibus libris deliberand' Justic' hujus Cur' nomina Concil' qui signabunt placita illa tam ex parte Quer' quam ex parte Defend' subscript' forent hujusmodi libris per Clericos vel Attorn' qui libros illos deliberarent.

in any Cause here in Court now depending or hereafter to be prosecuted, shall be received by the Clerks of the Papers of this Court, before such Pleas or Demurrers in Law shall be signed with the proper Hand of some Counsel in that Behalf retained.

And it is further Ordered that the Clerks of the Papers of this Court in all Copies of Pleadings and Paper Books by them made shall write under such Copies of Pleadings and Paper Books the Names of the Counsel who Signed such Pleadings as well on the Part of the Plaintiff as on the Part of the Defendant ; and that in all Books to be delivered to the Justices of this Court the Names of the Counsel who shall Sign those Pleadings as well on the Part of the Plaintiff as on the Part of the Defendant, shall be written under those Books by the Clerks or Attorneys who deliver those Books.

Die Mercur' prox' post Quinq; Septiman' Pasch' Anno 18 Car. II. Regis.

Easter, 18 Car. II.
1666.

Special Pleas. Paper Books.

Ordinatum est per Cur' qd' nulla placita specialia seu morationes in lege in a-

It is Ordered by the Court that no special Pleas or Demurrers in Law

Die Martis prox' post Octab. Sancte. Trin. Anno 18 Car. II. Regis.

Trin. 18 Car. I.
1666.

Ejectment.

QUAM per antiquam Consuetud' hujus Cur' Regule ad respondend' dari & intrari debent cum Clerico Regularum hujus Cur' in omnibus Actionibus in Cur' hic prolatis & pendens Quæ quidem Cons' nuper neglect' fuit in Action' transf-

WHereas by the antient Course of this Court Rules to plead ought to be given and entered with the Clerk of the Rules of this Court in all Actions in this Court brought and depending, which Course hath lately been neglected in Actions of Trespass and Ejectment(c);

[g]

for

(c) If the Plaintiff does except against the Bail, he may have a Rule or Warrant for a Procedendo, unless Bail be perfected in four Days after Service of that Rule, whether in Term or Vacation. See Hil. 10 W. III. Note; Where a Cause is removed by Ha' Cor' the Plaintiff must begin de novo and declare in two Terms after the Return, for the Record is not removed on a Habeas Corpus, as it is on a Certiorari. Salk. 352. Where the Defendant removes his Cause, he cannot non-prosi the Plaintiff for want of a Declaration. (b) East. 29 Car. II. — 9 W. III. 1696. Mich. 8 Ann. Note; Although it is not expressed in this Rule that Notice shall be given of Bail put in upon a Habeas Corpus, as it is of Bail on a Capi Corpus; yet the Judges have resolved that Notice of Bail shall be given in both Cases. (c) Hil. 1649.

transgr' & Ejection' forme, pro exitatione cujus in futuro,

Ordinal' est qd' quilibet Attorn' hujus Cur' intrabit cum Clerico Regularum generalem Regulam ad respondend' in omni Actione Transgr' & Ejection' forme prolat' priusquam aliqua Motio fact' fuerit in Cur' pro Judicio vers' Casualem Ejectionem.

for prevention whereof for the time to come,

It is Ordered, That every Attorney of this Court shall enter with the Clerk of the Rules a general Rule to plead in every Action of Trespass and Ejectment before any Motion shall be made in Court for (a) Judgment against the casual Ejector.

Die Lune prox' post Crastinum Ascens. Domini Anno 19 Car. II. Regis.

East. 19 Car. II. 1667.

Fee to the Clerk of the Declarations.

Ordinatum est per Cur' qd' quilibet Clericus Philizar' & Attorn' hujus Cur' solvet Officiari' hujus Cur' appunctuati' pro reception' filation' & custodi' Billarum & Narration' hic in Cur' affilandi antiquum feod' duorum solid' in fine cujuslibet Termin' pro Salario suo pro reception' filation' & custodi' Billarum & Narrationum pradiet' secund' separat' Ordines hujus Cur' prius inde in ea parte fact'. Et si aliquis Clericus Philizar' vel Attorn' hujus Cur' recusav'it solvere feod' ill' super rationabil' requisition' ei inde faciend' tunc hujusmodi Clericus Philizar' & Attorn' suspendatur a privilegio practicie sue in eadem Cur' ad Discretionem Capital' Clerici vel Secundari' Cur' ill'.

It is Ordered by the Court that every Clerk, Philizar and Attorney of this Court shall pay to the Officer of this Court appointed for receiving, filing and keeping Bills and Declarations here in Court to be filed, the ancient Fee of 2 s. at the end of every Term for his Salary, for the receiving, filing and keeping the Bills and Declarations aforesaid according to several Orders of this Court formerly made (b) in that behalf; And if any Clerk, Philizar or Attorney of this Court shall refuse to pay that Fee, upon reasonable Request made to him for that purpose, then such Clerk, Philizar and Attorney, shall be suspended from the Privilege of his Practise in this Court, at the Discretion of the chief Clerk or Secondary of this Court. (c)

Die Lune proximo post tres Septiman' Sancte Trin. Anno 20 Car. II. Regis.

Trin. 20 Car. II. 1668.

Clerks and Attorneys.

Ordinatum est per Cur' qd' quilibet Clericus hujus Cur' Computabit separatim per se ad finem cujuslibet Termin' secundum antiquas regulas hujus Cur' inde fact'. Et qd' duo tres vel plures eorundem non infimul Computarent in nomine unius Clerici prout nuper usitat' fuit.

Et ulterius Ordinatum est qd' si aliquis Clericus hujus Cur' signaret vel signari permetteret aliqua brevicia seu affilaret vel affilari permetteret aliquos Rotulos in nomine suo pro aliquo alio Clerico hujus Cur' qui aretro existit cum Computis suis in Officio tunc hujusmodi Clericus qui sic signaret vel signari permetteret aliqua talia brevicia seu affilaret vel affilari permetteret aliquos tales Rotulos in nomine suo solvet Arrearag' Computalium Clericorum pro quibus aliqua talia brevicia sic per ipsum signat' seu aliqua tal' Rotul' sic per ipsum affilati forent.

It is Ordered by the Court, That every Clerk of this Court shall account severally by himself at the end of every Term according to the ancient Rules of this Court made in that Behalf, and that two, three or more of them shall not account together in the Name of one Clerk as lately hath been used. (d)

And it is further Ordered, That if any Clerk of this Court shall sign or suffer any Writs to be signed, or file or suffer to be filed any Rolls in his own Name for any other Clerk of this Court who is in Arrear with his Accounts in the Office, then such Clerk who so signs or suffers to be signed any such Writs, or fileth or suffereth to be filed any such Rolls in his own Name, shall pay the Arrears of the Accounts of such Clerks for whom any such Writs were so signed by him, or any such Rolls were so filed by him.

De Termino Sancti Hillarii Anno Regni Car. II. Regis 20 & 21.

Hil. 20 & 21 Car. II. 1668.

Trials.

Ordinatum est per Cur' qd' Exitus junct' de aliquo priori Termin' triati fuerint super prima vel secunda Sessione cujuslibet Termin' peremptorie: Et qd' Custos Brevium hujus

It is Ordered by the Court, that Issues joined of any former Term shall be tried the first or second Sittings of every Term peremptorily; And that the Custos Brevium of this Court

(a) Hil. 1649. Motion must be made in that Term wherein the Tenant had Notice to appear. Salk. 257. (b) The like Rule Mich. 15 Car. II. (c) The like Rule Mich. 15 Car. II. (d) Thus far is Obsolete, see Easter, 15 Car. II.

ius Cur' non figillabit aliquod Recordum de Nisi prius triana' contra intentionem hujus Regule.

Court shall not sign any Record of *Nisi prius* to be tried contrary to the Intent of this Rule. (a)

Trin. 22 Car. II. 1670.

Bail.

Ordinatum est per Cur' qd' nullus Defend' qui fuit arrestat' virtute alicujus Processus e Cur' Domini Regis coram ipso Rege emanant' compulsi fuit imponere Ballium pro majori Summa quam in hujusmodi process. exprimitur.

Et ulterius Ordinatum est qd' si Quer' narrabit versus Defend' super aliquod Ballium per ipsum imposu' pro majori Summa quam exprimitur in process. super quo Defend' arrestat' fuit tunc Ballium sic imposu' non onerabile fuerit in Actione illa.

It is Ordered by the Court, that no Defendant, who shall be arrested by Virtue of any Process issuing out of the Court of the Lord the King before the King himself, shall be compelled to put in Bail for a greater Sum than is expressed in such Process. (b)

And it is further Ordered, That if the Plaintiff shall declare against the Defendant upon any Bail by him put in for a greater Sum than is expressed in the Process upon which the Defendant was arrested, then the Bail so put in shall not be chargeable in that Action. (c)

Die Mercur' prox' post Octab' Pur' beat' Mariæ Anno 25 Caroli II. Regis.

Hil. 25 Car. II. 1672.

Sealing Writs.

Ordinatum est qd' Officiar' hujus Cur' qui habent custodiam sigilli Cur' permittant un' vel plur' person' attendere omnibus temporibus sigillation' brevium ejusdem Cur' ex parte Dom' Regis & impression' vel signum super hujusmodi brevibus sic sigillat' vel sigilland' imponere quousq; Cur' hic ulterius ordinaverit ita qd' nullum impedimentum perinde eveniat Officiar' præd' in sigillatione brevium præd'.

It is Ordered that the Officers of this Court who have the Custody of the Seal of the Court, permit one or more Persons to attend at all Times the Sealing of Writs of the same Court, on the Behalf of our Lord the King, and put a Stamp or Mark upon such Writ so Sealed or to be Sealed until this Court shall further Order, so that no impediment may thereupon arise to the Officers aforesaid in Sealing the said Writs. (d)

Die Lunæ prox' post Octab' Sti Martini Anno 28 Car. II. Regis.

Mich. 28 Car. II. 1676.

Marshal and Prisoners in the King's Bench.

Ordinatum est qd' Mar' Marese' hujus Cur' pro tempore existens non permittet aliquam personam quamcumq; in ejus custodia remanens super aliqua Actione vel in Executione vel pro aliquo Contempti quocumque detent' infra dicta' Prisonam vel infra Libertat' Regularum ejusdem Prisonæ ire extra eandem Prisonam vel Libertat' præd' absq; speciali Regula hujus Cur' in ea parte prius habita' & obtenta' periculo incumben'.

It is Ordered that the Marshal of the *Marshal-Sea* of this Court for the Time being, shall not permit any Person whatsoever remaining in his Custody upon any Action or in Execution, or for any Contempt whatsoever detained within the said Prison or within the Liberty of the Rules of the said Prison, to go out of the said Prison or the Liberty aforesaid, without a special Rule of this Court in that Behalf first had and obtained, upon the Peril that may ensue. (e)

Die Jovis prox' post tres Sept' Pasche Anno 29 Car. II. Regis.

Easter, 29 Car. II. 1677.

Bail.

Ordinatum est per Cur' qd' nullum Ballium fuit imposu' super brevi de Habeas Corpus priusquam breve ill' fuit retornat'.

Et qd' quilibet Attorn' hujus Cur' qui imponet aliquod speciale Ballium coram aliquo Justic' hujus Cur' tempore impositionis inde deponeret in manibus Clerici Justic' coram quo hujusmodi Ballium sic fuit imposu' secund' debet' pro assilatione Ballii ill' videlicet pro quolibet ballio super brevi de Habeas Corpus 4 s. 10 d. & pro quolibet Ballio super brevi de Ce' Cor 2 s. 6 d. Et qd' Clerici Justiciar'.

It is Ordered by the Court, that no Bail shall be put in upon Writs of *Habeas Corpus* before such Writ shall be returned. (f)

And that every Attorney of this Court, who puts in any special Bail before any Justice of this Court, at the Time of putting in thereof shall deposit in the Hands of the Justice's Clerk before whom such Bail shall be so put in, the Fee due for filing that Bail, that is to say, for every Bail upon a Writ of *Habeas Corpus* 4 s. 10 d. and for every Bail upon a Writ of *Cepi Corpus* 2 s. 6 d. And the Judges Clerks in whose Hands that Fee shall be so left, shall within 6x Days

(a) A former Rule Hil. 15 & 16 Car. II. (b) Stat. 12 Geo. I. cap. 29. (c) Note; The latter part in this Rule is altered, and the Practice settled by the Rule, Easter, 5 Geo. II. (d) East. 32 Car. II. (e) Stat. 8 & 9 W. III. cap. 27. (f) See Hil. 10 W. III. Mich. 1651.

ar' in quorum manibus
feod' ill' sic imposi', in-
fra sex dies prox' post fi-
nem cuiuslibet Termin-
dabunt notam in Scrip-
tis Secundar' hujus Cur'
omnium Ballior' de Va-
catione & Termino præ-
ceden' sic imposi', una
cum nominibus Attorn'
qui Ballia ill' imposuer'
& solverent eidem Se-
cundar' feod' præd' per
ipso pro Balliis ill' in
forma præd' recept'.

Days next after the end of
each Term, give a Note in
Writing to the Secondary of
this Court of all Bails of
the Vacation and Term fore-
going so put in, together
with the Names of the At-
torneys who put in those
Bails, and pay the said Se-
condary the Fee aforesaid,
received by them for such
Bails in manner aforesaid.

brevia original' ema-
nan' ante comparent'
defend' signari debent
per Philizar' hujus Cur'
secundum consuetud' hu-
jus Cur'.

whatsoever issuing upon O-
riginal Writs before the Ap-
pearance of the Defendant
ought to be signed by the
Philizars of this Court ac-
cording to the course of this
Court.

Die Jovis prox' post Octab' Sancti Hillar'
Anno 30 Car. II. Regis.

Philizars.

Ordinatum est qd' referetur Magistro Livesay ad exa-
minand' quæ brevia signari debent per Philizar' hu-
jus Cur' antequam talia brevia sigillari debent. (a)

Die Martis prox'
post Crastin' Pu-
fication' beate
Marie Anno 31
Car. II. Regis.

Hil. 31 Car. II.
1678.

Writs.

Ordinatum est
quod Brevia
Originalia quæ de Ju-
re signari debent per
Philizar' huj' Curie
signata fuerint per eos-
dem Philizar' prius-
quam talia Brevia si-
gillantur per Officia'
hujus Curie Et quoad
alia Brevia in questione
qd' referentur Magistro
Astry & Magistro Live-
say ad examinand' &
ad certificand' Cur'.

It is Ordered that
Original Writs which
by Law ought to be signed
by the Philizars of this Court,
shall be signed by the said
Philizars before such Writs
be sealed by the Officer of
this Court. And that other
Writs in Question be referred
to Mr. Astry and Mr. Live-
say, to examine and certify
the Court. (b)

Die Sabbati post
Crastinum Af-
cen' Dom' An-
no 31 Car. II.
Regis.

Easter, 31 Car. II.
1679.

Philizars. Writs.

Ordinatum est qd'
omnia brevia &
process' quæcunque super

It is Ordered that all
Writs and Processes

Die Sabbati prox'
post Octab' Stæ'
Trin. Anno 31
Car. II. Regis.

Trin. 31 Car. II.
1679.

Records of Nisi prius.

Ordinatum est qd'
null' Record' de
Nisi prius pro Triatione
Exit' ad Affixas sigille-
tur post finem trium
Septimanarum prox' se-
quen' Clauzum Termin-
i.

It is Ordered that no
Record of Nisi prius
for the Trial of an Issue at the
Affizes shall be sealed after
the end of (c) three Weeks
next after the end of the
Term. (d)

Die Lune post
Mens' Pasch'
Anno 32 Car. II.
Regis.

Easter, 32 Car. II.
1680.

Sealing Writs.

Ordinatum est qd'
Officia' hujus
Cur' qui habent custod'
sigilli permitterent un'
vel plur' person' atten-
dere temporibus sigilla-
tion' brevium præd'
Cur', & Impression'
vel signum super hu-
jusmodi brevia sic sigil-
lat' vel sigilland' impo-
nere ex parte Jacobi
Comitis Suff' quousq'
Cur' hic aliter ordina-
verit ita qd' fiat absq'
onere aliquibus Dom'
Regis subdit' sive impe-
diment' Officia' præ-
dict'.

It is Ordered that the
Officers of this Court
who have the Custody of
the Seal, permit one or
more Persons to attend at
the Time of Sealing the
Writs of the said Court,
and fix, on the Behalf of
James Earl of Suffolk, a
Stamp or Mark upon every
Writ so sealed or to be seal-
ed, until the Court here
shall otherwise Order, so that
it be done without charge to
any of his Majesty's Subjects
or hindrance to the Officers
aforesaid. (e)

(a) See Easter, 31 Car. II.

(b) See the following Rule, Easter, 31 Car. II.

(c) See Trin. 1 Jac. II.

& Mich. 5 Ann. Tri. 10 & 11 Geo. II. (d) But this Practice at present is altered; for by a Judge's Order (for
which you pay the Officer 2 s. and which he will procure at his Lease) you may have your Record sealed at any time
before the Affizes.

(e) Hil. 25 Car. II.

Paf. 33 Car. II.
Regis.

East. 33 Car. II.
1681.

Error in the Exchequer

Ordinatum est qd regula facta Termino Sancti Michaelis ult' pret'it' pro deliberatione Cop' de Err' & Record' superinde Justiciar' de Com' Banco, & Baronibus de Scaccario exoneretur.

Et qd in futuro null' Cop' de Erroribus & Record' superinde deliberetur præd' Justiciar' vel Baronibus priusquam Attorn' pro Quer' super brevi de Error' per decem dies notitiam dabit Cleric' Error' in Camera Scaccarii qd Error in Record' assign' argueretur coram eisdem Justic' & Baronibus pro utraq' parte Et qd Attorn' pro Quer' deliberabit quatuor Cop' Justiciar' de Com' Banco. Et Attorn' pro Defend' deliberabit quatuor al' Cop' Baronibus de Scaccario quatuor dies ante auditum Cause.

Chamber.

It is Ordered that the Rule made in Michaelmas Term last past for the Delivery of Copies of Error and the Records thereupon to the Justices of the Common Pleas and the Barons of the Exchequer be discharged, and that for the future no Copy of Error and Record thereupon be delivered to the said Justices or Barons before the Attorney for the Plaintiff upon the Writ of Error shall give ten Days notice to the Clerk of the Errors in the Exchequer Chamber, that the Error assigned in the Record is to be argued before the said Justices and Barons for both Parties, and that the Attorney for the Plaintiff shall deliver four Copies to the Justices of the Common Pleas, and the Attorney for the Defendant shall deliver four other Copies to the Barons of the Exchequer four Days before the hearing the Cause.

Die Lune post
Quinden' Martini Anno 33
Car. II. Regis.

Mich. 33 Car. II.
1681.

Bail. Ejectment.

Ordinatum est per Cur' qd Regula hujus Cur' prius facta pro affilatione Bail' observetur sub pena satisfactor' in eadem Regula mentionat.

It is Ordered by the Court that the Rule of this Court formerly made for filing Bail be observed upon the Penalty of the Forfeitures in the said Rule mentioned.

Et ulterius Ordinatur est qd omnes Attorn' hujus Cur' qui deliberabunt vel deliberari causabunt aliquam narrationem in placito Transger' & Ejection' firmæ alicui tenen' in possession' aliquarum terrarum seu tenement' prosequerentur breve de Latitat' vers' casualem Ejec-torem & affilabunt commune ballium pro eodem antequam signabunt Judicium vers' Casualem Ejec-torem in aliqua tali Actione.

And it is further Ordered, that all Attorneys of this Court who shall deliver or cause to be delivered any Declaration in a Plea of Trespas and Ejectment to any Tenant in Possession of any Lands or Tenements, shall sue out a Writ of Latitat against the casual Ejec-tor and file common Bail for him before they shall sign Judgment against the casual Ejec-tor in any such Action. (a)

Paf. 36 Caroli II.
Regis.

Easter, 36 Car. II.
1684.

Ordinatum est qd omnia brevina de Error' retornabil' coram Justic' de Com' Banco, & Baron' de Scaccario in Camera Scaccarii indilate deliberentur Cler' Error' pro tempore existen' quodque nemo tenebitur abstinere a Prosecutione Executionis prætextu alicujus hujusmodi brevis de Error' priusquam breve deliberetur Cler' Error'. Et in Casibus ubi Speciale Bail' requiritur, Nisi Quer' super tali Brevis de Error' infra quatuor dies post deliberation' inde impon' Ballium secundum Legem, Defend' poterit procedere ad Executionem tali brevi non obstan'.

Error in the Exchequer Chamber.

It is Ordered that all Writs of Error returnable before the Justices of the Common Bench and the Barons of the Exchequer in the Exchequer Chamber, shall without delay be delivered to the Clerk of the Errors for the Time being, and that no Person shall be bound to forbear suing out of Execution on pretence of any such Writ of Error before the Writ shall be delivered to the Clerk of the Errors. (b) And in cases where special Bail is required, unless the Plaintiff upon such Writ of Error, shall within four Days after the delivery thereof put in Bail (c) according to Law, the Defendant may proceed to Execution notwithstanding such Writ.

[h]

RULES

(a) See Trin. 14 Car. II. and the Note there.
5 W. & M.

(b) Easter, 16 Car. II. reg. 2. & Ea. 36 Car. II.

(c) Mich.

RULES and ORDERS

OF THE

Court of King's Bench.

Die Mercurii prox'
post tres Septi-
man' Sanctæ
Trin. Anno 1
Jac. II. Regis.

Trin. 1 Jac. II.
1685.

Records. Rolls.

Ordinatum est qd' nullum Record' de Nisi prius sigilletur per aliquem Officiari' hujus Cur' post duodecimum diem Julii prox' futur' quousq; exitus seu pars ejusdem intretur super Rotulum numerat' & hujusmodi exitus ostendatur Secundar' hujus Cur', & per ipsum Signat' foret & licentiat' fore Sigilland'. Et qd' null' Rotul' unnumerat' deliberat' sint alicui personæ nisi Cler' Capital' Cler', & non alicui alteri Attorn' sive Philizar'. Ac qd' null' Cler' Attorn' sive Philizar' imposterum irrotulabit aliquam Indentur', Scriptum, Breve de Errori, Exit' vel morat' in lege super aliquem Rotulum Philizar'.

It is Ordered that no Record of Nisi prius be sealed by any Officer of this Court after the 12th Day of July next coming, till the Issue or part thereof, be entered upon the Number Roll, (a) and such Issue be shewed to the Secondary of this Court and by him signed and licenced to be sealed. And that no Rolls unnumbered be delivered to any Person unless to the Clerks of the chief Clerk, and not to any other (b) Attorney or other Philizar. And that no Clerk, Attorney or Philizar, shall hereafter Inroll any Indenture, Writing, Writ of Error, Issue or Demurrer in Law, upon any Philizar's Roll.

4

(a) Tri. 31 Car. II. See Mich. 5 Ann. & East. 7 Geo. I. as to the Clerks of the chief Clerk. (c) Mic. 17 Car. I. long Time hath been to deliver the Books only two Days before the Day appointed for the Argument. (e) — 5 W. & M. 1692. Hil. 10 W. (f) The Bail are liable to all the Actions mentioned in the Return of the Ha' Corp' wherein the Plaintiff or Plaintiffs shall declare within two Terms.

A Defendant returned in Custody on a Ha' Corp' or Cepi Corp' shall not be discharged till Bail is perfected.

See Directions for laying the Venue on Removal, Reg. Mich. 1654. sect. 9. and for the Time the Defendant has to plead after Declaration delivered, see Trin. 5 & 6 Geo. II. but Note, The Practice is not yet settled, some Attorneys still following the old Method of proceeding.

Die Veneris prox'
post Mens' Pas.
Anno 2 Jac. II.
Regis.

Easter, 2 Jac. II.
1686.

Paper Books. (c)

Ordinatum est qd' super lection' alicujus Record' hic in Cur' super moration' in Lege, speciali Verdict' vel brevi de Errori & superinde dies dat' est ad audiend' Concilium ambarum partium, Libri deliberentur Justic' hujus Cur' per spatium quatuor dierum ante diem sic per Cur' appunctuat' per Attorn' ex utraque parte. Et qd' Exceptiones quæ insisterentur super argumentum denotat' erunt in Margine eorundem Librorum.

It is Ordered that upon Reading of any Record here in Court upon a Demurrer in Law, special Verdict or Writ of Error, and thereupon a Day is given to hear the Counsel of both Parties, the Books shall be delivered to the Justices of this Court by the Attorneys of both Parties by the space of four (d) Days before the Day so by the Court appointed. And that the Exceptions, which shall be insisted on, upon the Argument, shall be marked in the Margin of those Books.

Die Lune prox'
post Octab' Sancti Hillar' Anno
2 Jacobi II. Regis.

Hil. 2 Jac. II.
1686.

Bail on Habeas Corpus.

Ordinatum est qd' quilibet Defend' non existens Executor vel Administrator qui prosecut' fuerit aliquod breve de Habeas Corpus ad removend' aliquam sectam extra aliquam inferior' Cur' imposuerit Special' Bailium in omnibus Actionibus quibuscunque (Actionibus pro scandalosis Verbis, & minutis insult' tantummodo excepti) Nisi un' Justic' hujus Cur' aliter Ordinaverit.

It is Ordered that every Defendant not being an Executor or Administrator who shall sue out any Writ of Ha' Corp' (e) to remove any Suit out of any inferior Court shall put in special (f) Bail in all Actions whatsoever (Actions for scandalous Words and small Assaults only excepted) unless one of the Justices of this Court shall otherwise Order.

Hil.

(b) The Rolls are now delivered to Attorneys as well as to the Clerks of the chief Clerk. (c) Mic. 17 Car. I. Easter, 18 Car. II. (d) But the Practice for a

long Time hath been to deliver the Books only two Days before the Day appointed for the Argument. (e) — 5 W. & M. 1692. Hil. 10 W. (f) The Bail are liable to all the Actions mentioned in the Return of the Ha' Corp' wherein the Plaintiff or Plaintiffs shall declare within two Terms.

cui al' persone, vel accipere ab aliquo Attorn' vel Clerico attenden' in Cur' hic vel aliqua al' persona, aliquod special' Placitum imponend' in Offic' Cleric' Papir' vel Copiam huiusmodi Placiti priusquam huiusmodi Placitum imposu' fuerit in Offic' Cleric' Papir' : Et qd' talis Copia postquam huiusmodi Placitum imponeretur fact' fuerit per Clericum in præd' Officio Cleric' Papir' attenden' & signat' sub manu unius Clericorum ibidem attenden' sub pena qd' quilibet Attorn' vel Clericus in Cur' hic attenden' forisfaciet pro prima offens. sua sic commiss. decem solid' solvend' Pixidi ad usum Pauperum. Et pro secunda offens. sua sic commiss' viginti solid' solvend' similiter Pixidi ad usum Pauperum. Et pro tertia offens. sua sic commiss. qd' talis Attorn' vel Clericus expelletur e Cur' hic secund' duas priores regulas peremptor' & general' in consimili casu per Cur' in plena Cur' fact' scilicet die Mercurii prox' post tres Septiman' Sanctæ Trin' Anno Regni Dom' Jacobi primi nup' Regis Angl', &c. secundo, acetiam die Mercur' prox' post tres Sept' Sanctæ Trin' Anno Regni Dom' Caroli Secundi nuper Regis Angl', &c. decimo sexto.

Die Lunæ prox' post Octab' Sanctæ Trin' Anno 4 W. & M. Regis & Regine.

Appearance. Writs.

I. **O** *rdinatum est qd' si aliquis*

ther Person, or receive from any Attorney or Clerk attending here in Court, or any other Person, any special Plea to be put into the Office of the (a) Clerk of the Papers, or a Copy of such Plea before that such Plea shall be put into the Office of the Clerk of the Papers; and that such Copy after such Plea be put in shall be made by the Clerk attending in the aforesaid Office of the Clerk of the Papers, and signed under the Hand of one of the Clerks attending there, under the Penalty that every Attorney and Clerk attending here in Court, shall forfeit for his first Offence so committed, 10s. to be paid to the Box for the use of the Poor; and for his second Offence so committed, 20s. to be paid likewise to the Box for the use of the Poor; and for the third Offence so committed that such Attorney or Clerk be expelled this Court, according to two former Rules peremptorily and generally in the like Case made by the Court in full Court, to wit, *Trin. 2 Jac. I. & Trin. 16 Car. II.*

Trin. 4 W. & M. 1692.

I. **I** *t is Ordered that if any Defendant hath*

Defend' voluntarie compervit ad secliam aliqu' Quer' in aliqua actione quacunque bit in Cur' prosequend' talis Comperenc' nullius vigoris & effectus habebitur nisi Attorn' pro tali Quer' infra quatuordecim dies post Diem huiusmodi Comperenc' prosecut' sit breve de Latitat' vel Billam Midd' ubi Defend' comoretur in Midd'.

voluntarily appeared at the Suit of any Plaintiff in any Action whatsoever here in Court prosecuted, such Appearance shall be held of no Force or Effect, unless the Attorney for such Plaintiff sue out within fourteen Days after such Appearance a Writ of Latitat, or Bill of Middlesex, where the Defendant abides in Middlesex. (b)

Die Sabbati prox' post Octab' Sanctæ Trin' Anno 4 W. & M. Regis & Regine.

Trin. 4 W. & M. 1692.

Bail.

II. **C** *UM Clerici & Attorn' huius Cur' non obstant' separatibus regulis & pænis pro vera affilatione com' Balliorum, huiusmodi cōia Ballia affilari negligunt in magnum periculum Quer' & detriment' Capital' Clerici, pro remedio quorum,*

Ordinat' est per Cur' qd' post finem huius Termin' quilibet Clericus & Attorn' huius Cur' qui erit Attorn' pro defend' solvet Attorn' pro Quer' super Junctione cuiuslibet Exitus xviii d. pro cōi Ballio nisi idem Attorn' pro Defend' constare fac' Attorn' Quer' qd' cōi vel specialis Ballium est affilati.

Et ulterius Ordinat' est qd' quilibet Clericus pro Quer' sup' computo suo pro intrationibus solvet secundar' huius Cur' xviii d. sic per eum recept'. Et qd' quilibet Clericus & Attorn' qui faciat in contrarium huius reglæ in aliqua parte respectiva forisfaciat x s. pro quolibet de-

II. **W** *Hereas the Clerks and Attorneys of this Court notwithstanding the several (c) Rules and Penalties for the true filing of Common Bails do yet neglect to file such Common Bails, to the great Danger of the Plaintiffs, and detriment to the chief Clerk, for Remedy whereof,*

It is Ordered by the Court, that after the end of this present Term, every Clerk and Attorney of this Court, who shall be an Attorney for the Defendant shall pay to the Plaintiff's Attorney upon joining of every Issue (d) 1 s. 6 d. for common Bail, unless the said Attorney for the Defendant shall make it appear to the Plaintiff's Attorney that common or special Bail is filed.

And it is further Ordered, that every Clerk for the Plaintiff on his Account for his Entries shall pay to the Secondary of this Court the 1 s. 6 d. so by him received, and that every Clerk and Attorney who shall act contrary to this Rule in any Behalf

(a) The Clerks of the Papers are now Mr. Benton and Mr. New. When the Plaintiff's Name begins with the Letter A. the special Pleadings are left with the former; if with the Letter B. then with the latter, and so alternately thro' the Alphabet. See Mich. 12 W. III. and the Note. (b) See the Note Trin. 14 Car. II. (c) Former Rules, East. 1657. Mich. 16 Car. II. (d) The Plaintiff's Attorney on the Back of the Declaration now charges 6 s. 8 d. for filing common Bail, which the Defendant's Attorney must pay on the Delivery, or on taking it out of the Office when it is there filed. Trin. 1 Geo. II.

delicto solvend' Pixid' bujus Cur'.

Et ulterius Ordinatur est qd' omnes Clerici & Attorn' pro Quer' super Ignatione Judicior' per default' vel non Inform' solvent Secundar' bujus Cur' xviii. d. pro Com'i Ballio Nisi prius affilat' fuisset & illi Octodecim denar' allocentur Quer' in Custag'.

half, shall respectively forfeit 10 s. for every such Default, to be paid to the Box of this Court.

And it is further Ordered, that all Clerks and Attorneys for the Plaintiff upon signing of Judgment by Default, or on Non sum Informatus, shall pay to the Secondary of this Court 1 s. 6 d. for the common Bail, unless it was before filed, and the said 1 s. 6 d. shall be allowed the Plaintiff in his Costs.

Die Martis prox' post tres Sept' Ste Trin' Anno 4 W. & M. Regis & Regine.

Trin. 4 W. & M. 1692.

Sealing Writs.

III. **S**UPER querel' Officiario' pro Custod' Sigilli bujus Cur' assignat' qd' separat' Brevia & Cur' hic indebitis emanaverunt absq' Sigillation' eorundem per prelat' Officiario' in defraudation' ejusdem Sigilli.

Ordinatur est per Cur' qd' separat' Subvic' separat' Com' bujus Regni Angl' permittant eisdem Officiarios ad servand' & inspiciend' omnia Brevia & Cur' hic emanat' & eis deliberat' & in eorum respectivo Custod' remanen' absq' aliquo sando proinde solvend'.

III. **U**PON Complaint of the Officers appointed for keeping the Seal of this Court, that several Writs have unduly Issued out of this Court without sealing of them by the aforesaid Officers in fraud of the said Seal.

It is Ordered by the Court, that the several Under-Sheriffs of the several Counties of this Kingdom of England, permit those Officers to search and inspect all the Writs issued out of this Court and delivered to them and remaining in their respective Custodies, without any Fee to be thereupon paid.

Die Veneris prox' post Mens' Pasch. Anno 5 W. & M. Regis & Regine.

Easter, 5 W. & M. 1693.

Bringing in Rolls.

Ordinatum est per Cur' (respect' habito cuidam Act'

It is Ordered by the Court, (respect being had to a certain Act of Par-

liament' nuper edit' pro abbreviacion' Judic' (vocat' Docketing of Judgments) qd' omnes Clerici Capital' Clericorum bujus Cur' intulerint in Officium Capital' Clericorum prelat' Rotulos suos de Terminis Pasch' ad vel ante diem Martis prox' ante prim' diem Terminis Ste Trinitatis. Et qd' iidem Clerici intulerint in Officium prelat' Rotulos suos de separabilibus Terminis Ste Trinitatis Sti Michaelis & Sti Hillar' per spatium unius Septiman' ad minus ante diem Epsom' ejuslibet Terminorum eorundem subsequen' Terminor'. Et qd' nullus Rotulus recipiatur vel affilatur post finem secundi Terminis absq' Regula bujus Cur' in ea parte obtinend'.

liament (a) lately made for Docketing of Judgments) that all the Clerks of this Court shall bring into the Office of the said chief Clerks their aforesaid Rolls of the Term of Easter at or before the Tuesday next before the first Day of Trinity Term, and that the said Clerks shall bring into the Office aforesaid, their Rolls of the several Terms of Trinity, Michaelmas and Hilary, by the space of one Week at least before the Essoin Day of every subsequent Term and that no Roll shall be received or filed after the end of the second Term without a Rule of this Court in that behalf obtained. (b)

Die Mercur' prox' post quinq; Sept' Pasch. Anno 5 W. & M.

Easter, 5 W. & M. 1693.

Reg. II. **R**egule observand' in Cur' Dom' Regis & Dom' Regine coram ipsis Rege & Regina in processu supernar' deliberand' Prisonar' in Custod' Gaclarum; Ordinatur est prout sequitur.

Prisoners. Reg. II. **R**ules to be observ'd in the Court of our Lord and Lady the King and Queen before the King and Queen themselves, in Proceedings upon Declarations deliver'd to Prisoners in Gaol, It is Ordered as followeth.

Qd' nulla Copia Narration' deliberatur Prisonar' in Custod' ante diem re-torn' processu super quo Defend' capi' vel onerat' fuit in Custod'.

Qd' nulla Regula dat' foret qd' Defend' in Custod' compareat & placitet alicui Narration' versus eum quousq; Sa'rum in Scriptis sit affilat' cum Cle-

THAT no Copy of a Declaration be delivered to a Prisoner in Custody, before the Day of the Return of the Process, upon which the Defendant was taken or charged in Custody.

That no Rule be given that the Defendant in Custody appear, and plead to any Declaration against him, till an Affidavit be filed with [i] the

(a) Stat. 4 & 5 W. & M. cap. 20. — 7 & 8 W. III. cap. 36. Trin. 10 W. III. Easter, 1657. See Mich. 5 Ann. reg. 1.

(b) East. 9 W. III. Mich. 9 W. III.

Clerico Regularum de deliberatione Copie talis Narrationis & de tempore quando & persona cui eadem Copia deliberetur & qd' Defend' arrestat' fuit vel onerat' in Custod' per processum ab hac Cur' retornabil' ante deliberationem talis Copie & qd' tempus affilation' hujusmodi Sacrament' intret' super Sacrament' illud per Clericum Regularum. Et qd' Copia illius Sacramenti producat' coram Prothonotari' vel Secundari' ante signationem Judicii.

Qd' si Copia Narrationis deliberetur vers' talem Defend' ante Mens' Pas. vel Crastini' Animarum & Sacrament' superinde fiat & affiletur. Et Defend' non compareat adinde infra decem dies prox' post finem Terminorum Sancti Michael' & Pas. respective Judicium reddetur vers' ipsum si Regule dat' fuer' sed si ipse compareat ante finem decem dierum post Terminum ipse habebit Licentiam interloquendi usq; prox' Termin' Nisi actio locetur in London' vel Middlesex. & Defend' sit in Custod' infra quadraginta Milliar' Civitat' London' vel Westm', tunc licet Defend' compareat ante expirationem decem dierum post finem Termin' ipse placitabit duos dies ante diem Esson' prox' Termin'. Et in defectu inde (Regulis dat' existent') Judicium intretur vers' eum ut predict' est.

Qd' si Copia Narrationis deliberetur vers' talem Defend' super vel post Mens' Pas. in

the Clerk of the Rules, of the Delivery of a Copy of such Declaration, and the Time when, and the Person to whom the said Copy was delivered; and that the Defendant was arrested or charged in Custody, by Process from this Court returnable before the Delivery of such Copy; and that the Time of filing such Affidavit be entred upon the said Affidavit by the Clerk of the Rules, and that a Copy of the Affidavit be produced before the Prothonotary or Secondary before Signing of Judgment.

That if a Copy of the Declaration be delivered against such Defendants before the Month of *Easter*, or the Morrow of *All Souls*, and Affidavit thereof be made and filed, and the Defendant doth not appear thereto within ten Days next after the end of *Easter* and *Michaelmas* Terms respectively, Judgment may be entered against him, if Rules have been given; but if he doth appear before the end of ten Days after the Term, he shall have Liberty of Imparling until the next Term; unless the Action be laid in *London* or *Middlesex*, and the Defendant be in Prison within forty Miles of *London* or *Westminster*; then though he doth appear before the Expiration of ten Days after the End of the Term, he shall plead two Days before the *Essoin*-Day of the next Term; and in Default thereof, Rules having been given, Judgment may be entered against him as aforesaid.

That if a Copy of the Declaration be delivered against such Defendant, on

Termino Pas. vel Crastini' Animarum in Terminis Sti' Michaelis vel in Terminis Sti' Hillarii vel Sti' Trinitatis. Et superinde Quer' daret Regulam comparere & pro Respons. tunc si Defend' compareat infra duos dies preceden' diem Esson' prox' Termin', ipse habeat Licentiam interloquendi usq; diem prox' Termin', sed si ipse non compareat infra tempus illud Judicium vers' eum reddetur.

Qd' si Breve sit retornabil' in aliquo Termino & Copia Narrationis deliberetur ante diem Esson' prox' Termin' Quer' in tali prox' Termino possit dare Regulam ad comparend' & respondend'. Et si Defend' non compareat & placitet super effluxionem Regularum Judicium vers' eum reddetur.

Qd' si Narratio non affiletur ante finem Termin' prox' postquam Breve vel Processus (per quos Prisonar' capt' fuit vel onerat' in Custod') sit retornabil' & Sacramentum fact' & affilat' modo supradict' ante finem viginti dierum prox' post talem Terminum hujusmodi Prisonar' exonerabitur per Com' Ballium signand' per un' Justic' hujus Cur'.

Qd' si aliquis Custos Gaole sive Prisonar' qui recepit Copiam Narrationis vers' aliquem Prisonar' in sua Custodia eandem concealat & non statim deliberet tali Prisonar', fiat Breve de Attach' vers' eum.

or after the Month of *Easter* in *Easter* Term, or the Morrow of *All Souls* in *Michaelmas* Term, or in *Hillary* or *Trinity* Term, and thereupon the Plaintiff gives a Rule to appear and plead; then if the Defendant appear within two Days before the *Essoin* Day of the next Term, he shall have Liberty of Imparling until the said next Term: But if he does not appear within that Time Judgment may be given against him.

That if a Writ be returnable in any Term, and a Copy of the Declaration be delivered before the *Essoin* Day of the next Term, the Plaintiff in such next Term may give a Rule to appear and plead, and if the Defendant does not appear and plead upon the Expiration of the Rules, Judgment shall be given against him.

That if the Declaration be not filed before the end of the next Term after the Writ or Process (by which the Prisoner was taken or charged in Custody) is returnable, and Affidavit made and filed in Manner aforesaid, before the end of 20 Days next after such Term, such Prisoner shall be (a) discharged by common Bail, to be signed by one of the Justices of this Court.

That if any Gaoler or Keeper of a Prison, who hath received a Copy of a Declaration against any Prisoner in his Custody, shall conceal the same, and not deliver it forthwith unto such Prisoner, an Attachment shall be issued against him.

Reg.

(a) See *Trin. 2 Geo. I. Trin. 6 Ann. for discharging Prisoners.*

Reg. III. Rules to be observ'd in his Majesty's Court of King's Bench, in Proceedings upon Declarations deliver'd to Prisoners in Gaol.

It is Ordered as followeth. (a)

Prisoners.

1st, **T**HAT no Copy of any (b) Declaration be delivered to a Prisoner in Custody, before the Day of the Return of the Process, upon which the Defendant was taken or charged in Custody.

2^{dly}, That no Rule be given for the Defendant in Custody to appear, and plead to any Declaration against him, till an (c) Affidavit be filed with the Clerk of the Rules, of the Delivery of a Copy of such Declaration, and the Time when, and the Person to whom the same Copy was delivered; and that the Defendant was arrested or charged in Custody, by Process of this Court returnable before the Delivery of such Copy; and that the Time when such Affidavit was filed, be entred upon the said Affidavit by the Clerk of the Rules, and a Copy of such Affidavit be produced to the Prothonotary or Secondary before signing of Judgment. (d)

3^{dly}, That upon every Arrest by mesne Process out of this Court, returnable the First Day of *Easter* or *Michaelmas* Term, if a Copy of the Declaration be delivered against such Defendants, before *Mensem Pasche*, or *Crastinum Annimarum*, and Affidavit thereof made and filed; and the Defendant doth not appear before the

end of ten Days after *Easter* and *Michaelmas* Terms respectively, Judgment may be entred against him, if Rules have been given; but if he doth appear before the end of ten Days after the Term, he shall imparl until the next Term; unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within forty Miles of *London* or *Westminster*; then though he doth appear before the Expiration of ten Days after the End of the Term, he shall plead two Days before the Effoin Day of the next Term; and in Default thereof, Rules having been given, Judgment may be entred against him as aforesaid. (e)

4^{thly}, If a Copy of a Declaration be delivered against such Defendant, on or after *Mensem Pasche* in *Easter* Term, or *Crastinum Annimarum* in *Michaelmas* Term, or in *Hillary* or *Trinity* Term, and thereupon the Plaintiff gives Rules to appear and answer; then if the Defendant appear two Days before the Effoin Day of the next Term, he shall imparl until the said next Term: But if he does not appear within that Time, Judgment may be given against him.

5^{thly}, If a Writ be returnable in any Term, and a Copy of the Declaration has been delivered before the Effoin Day of the next Term, the Plaintiff in such next Term may give Rules to appear and answer, and if the Defendant does not appear, and plead upon the Expiration of the Rules, Judgment shall be given against him.

6^{thly}, If the Declaration be not filed before the end of the next Term, after the Writ or Process (by which the Prisoner was taken or charged

(a) This Rule was made on the Stat. 4 & 5 W. & M. cap. 21. whereby it is enacted, That if any Defendant be taken and charged in Custody at the Suit of any Person, upon any Writ or Writs out of any of the Courts at *Westminster*, and imprisoned for want of Sureties for his Appearance, the Plaintiff in such Writ may, before the end of the next Term after such Writ shall be returnable, declare against such Prisoner in the Court out of which the Writ or Writs shall Issue, whereupon such Prisoner shall be taken and charged in Custody, and may cause a true Copy thereof to be delivered to such Prisoner, or to the Gaoler or Keeper of the Prison or Gaoler in whose Custody such Prisoner shall be and remain, to which Declaration the said Prisoner shall appear and plead; but if he shall not appear and plead thereto, the Plaintiff shall in such Case have Judgment, as if the Prisoner had appeared and refused to plead. And that in all such Declarations against such Prisoners it shall be alledged in the Custody of what Sheriff, Bailiff or Steward of any Franchise or other Person having Return and Execution of Writs, such Prisoner shall be at the Time of such Declaration, which Allegation shall be as good and effectual as if such Prisoner was in Custody of the Marshal of the *Marshalsea*. Note; Before this Statute, when any Defendant was detained in Custody by Mesne Process of this Court for want of Bail, if the Plaintiff did not within two Terms cause the Defendant to be brought up by Ha' Corp', and committed so that he might declare against him in the Custody of the Marshal, the Defendant might be discharged out of Custody on common Bail or Appearance.

(b) A Bill or Declaration on double Penny stamp Parchment ought to be filed in the Office of the Clerk of the Declarations before a Copy of it on double penny stamp Paper be delivered to the Prisoner, &c.

(c) Where a Copy is delivered to a Keeper, Gaoler or Turnkey of a Gaol, it is necessary to set forth in the Affidavit, that he acknowledged that the Defendant was then a Prisoner in the said Gaol. But where the Defendant is in Custody of the Marshal, no Affidavit is required of the Delivery of such Copy, as is when the Defendant is in Custody of a Sheriff, &c.

(d) You make a Copy of the Affidavit on double Six-penny Stamp, and of the Declaration on double Penny Stamp, annex them together, and then file the Original Affidavit with the Clerk of the Rules, and take the Copy with the Declaration annexed, to the Master, and he will give a Rule thereon for the Defendant to appear and plead, which Rule the Clerk of the Rules enters in his Paper; and on Default thereof, Judgment may be signed.

(e) When a Bill is filed against a Prisoner in the Custody of the Marshal, if a Copy of it be delivered for him to the Turnkey, four Days exclusive before the end of the Term, a Rule to plead be given and a Plea demanded, which may be done on the back of the Copy when delivered, the Defendant shall plead as of that Term; but if the Bill be not filed and the Copy delivered four Days exclusive before the end of the Term, the Defendant may imparl until the next Term.

charged in Custody) is returnable, and Affidavit made, and filed in Manner aforesaid, before the end of twenty Days next after such Term, the Prisoner shall be discharged by common Bail, signed by one of the Justices of this Court.

7thly, If any Gaoler or Keeper of a Prison, having received a Copy of a Declaration against any Prisoner in his Custody, shall suppress the same, and not deliver it forthwith unto such Prisoner, an Attachment shall be issued against him.

John Holt, } William Gregory,
William Dolben, } Giles Eyre.

This Rule being a Translation of the former with some little Addition and Variation is therefore placed here, altho' by the Title it seems to have been signed by the Judges since the Death of Queen Mary.

Die Jovis prox'
post rres Septi-
man' Sti' Mich.
Anno 5 W. & M.
Regis & Reginae.

Mich. 5 W. & M.
1693.

Bail on Error.

Ordinatum est per Cur' qd' quilibet Attorn' hujus Cur' qui prosecut' fuit aliquod Breve de Error' ad revocand' aliquod Judicium hic in Cur' obtent' in quo speciale Ball' imponi debet post impositione talis Specialis Ball' dabit notitiam inde indilate Defend' in brevi de Error' vel ejus Attorn'. Et qd' si praed' Defend' non calumpniabitur Ballium ill' pro insufficienc' inde infra viginti dies prox' post notic' ei vel ejus Attorn' inde dat' tunc talis Recogn' allocabitur.

It is Ordered by the Court, that every Attorney of this Court, who hath sued out any Writ of Error to reverse any (a) Judgment obtained in this Court, in which special Bail ought to be put in, after the putting in of such special Bail shall give (b) Notice thereof without delay to the Defendant in the Writ of Error or to his Attorney, and that if the aforesaid Defendant shall not (c) except to the said Bail for Insufficiency thereof within 20 Days next after Notice thereof given to him or his Attorney, then such Recognizance shall be allowed. (d)

Die Mercurii prox'
post 15 Sti' Hil-
larii Anno 3
W. & M.

Hil. 5 W. & M.
1693.

Ordinatum est qd' quilibet Prisonar' qui Commissus fuit Custod' Mar' hujus Cur' virtute alicujus Brevis de habend' Corp' ad respondend' vel ad faciend' & recipiend' remanebit in actual' Custod' ejusdem Mar' per spacium duorum dierum prox' post talem Commissionem talis Prisonar' eidem Mar' non obstante aliquo alio Brevi de habend' Corp' ad respondend' vel ad faciend' & recipiend' extra aliquam al' Cur' emanant' eidem Mar' deliberand' & allocand'.

Prisoners.
It is Ordered that every Prisoner who shall be committed to the Custody of the Marshal of this Court by Virtue of any Writ of Habeas Corpus ad respondend' or ad faciend' & recipiend', shall remain in actual Custody of the said Marshal by the space of two Days next after such Committal of such Prisoner to the said Marshal, notwithstanding any other Writ of Ha' Corp' ad respondend' or ad faciend' & recipiend' issuing out of any other Court to the said Marshal delivered and allowed.

Die Sabbati in
quinden' Sti' Hil-
larii Anno 6 W.
& M.

Hil. 6 W. & M.
1694.

Ordinatum est qd' omnes Fines deb' Domino Regi & Dominae Reginae in Cur' ipsorum Dom' Regis & Dom' Reginae, pro aut super omnibus actionibus pro deb' & Actionibus pro dampnis in Cur' praed' prosecut' recipiantur & colligantur sicut antea.

Fines due to the King.
It is Ordered that all Fines due to our Lord the King and our Lady the Queen in the Court of the said Lord the King and Lady the Queen for or upon all Actions for Debt and Actions for Damages prosecuted in the Court aforesaid be received and collected as heretofore.

On

(a) On what Judgments a Writ of Error shall be no *Superfedeas* without Bail, see Stat. 3 Jac. I. cap. 8. 13 Car. II. cap. 2. 16 & 17 Car. II. cap. 8.

(b) A Writ of Error is a *Superfedeas* from the time of the Allowance, and is Notice of its self; but if the Defendant have Notice before the Allowance, it is from the Time of that Notice a *Superfedeas*, and tho' the Allowance is a sufficient Notice to supersede the Execution, yet to bring the Attorney into Contempt, he must have had Notice.

A Writ of Execution is not legally executable any longer than whilst the Court is sitting that Day, on which the Writ is returnable, and so long as it is executable, and not executed, the Allowance of a Writ of Error is a *Superfedeas*, but not afterwards. Salk. 321.

(c) The Exception against the Bail should be entered in the Clerk of the Errors's Book, and Notice given to the Plaintiff in Error, and also a Rule for better Bail had of the Clerk of the Errors; and if the Bail do not justify, or better Bail be put in within four Days after Notice of the Rule, the Plaintiff in the Original Action may take out Execution, but the Writ of Error remains still, and the Plaintiff in Error may proceed thereon; it is only the *Superfedeas* to the Execution that is taken away. Note; The Bail cannot surrender the Plaintiff in Error.

(d) East. 16 Car. II. East. 36 Car. II. Stat. 27 Eliz.

On all Original Writs where the Damages laid exceed 40 l. Fines (a) are paid in the following Proportions.

	l.	s.	d.
From 40 l. to 66 l. 13 s. 4 d. i. e. 100 Marks	0	6	8
100 Marks to 100 l.	0	10	0
100 l. to 200 Marks	0	13	4
133 l. 6 s. 8 d. to 166 l. 13 s. 4 d.	0	16	8
166 l. 13 s. 4 d. to 200 l.	1	0	0
For every 100 Marks more	0	6	8
For every 100 l. more	0	10	0

Die Veneris prox'
post Crast' Sta'
Trinitatis Anno
8 W. tertii Re-
gis.

Trin. 8 W. III.
1696.

Scire Facias. (b)

I. **O**rdinatum est
qd' super em-
natione alicujus brevis
de Scire fac' super ali-
quam Sectam hic in
Cur' penden' null Bre-
ve de alias Scire fac'
superinde emanabit
quousq; primum Breve
de Scire fac' retornabile
existit. Et si aliquod
Breve de al' Scire fac'
prosecut' fu'it in contra-
rium tunc hujusmodi al'
Scire fac' vacuum fit.

I. **I**t is Ordered that
upon issuing any Writ
of Scire facias upon any
Suit here in Court depend-
ing, no Writ of Alias Scire
facias shall thereupon Issue,
until the first Writ of Scire
facias be returnable. And
if any Writ of Alias scire
facias shall be sued out con-
trary to this Rule, then such
Alias scire facias shall be
void. (c)

Eodem Die. The same Term.

Special Juries.

II. **O**rdinatum est
qd' super ali-
quam Referenc' per
Cur' hic fa' & Secundar'
hujus Cur' ad retornand'
aliquam Juratam seu
nominand' quadraginta
& octo suffic' Jur' ad
triand' aliquem exit' hic
ad Barr' in presentia
Attorn' ambarum par-
tium si Attorn' ex una
parte defalt' fec'it ad

II. **I**t is Ordered that
upon any Reference
by the Court here made to
the Secondary of this Court
to return any Jury, or to
name forty-eight sufficient
Jurors (to try any Issue here
at the Bar) in the Presence
of the Attornies of both
Parties; if the Attorney of
one Side shall make Default
to appear before the said

comparend' coram eodem
Secundar' tempore per
ipsum appunctuat' pro
nominatione Jur' pred'
seu ad extrapositionem
duodecim de utraq; par-
te in tali Casu idem
Secundar' nominabit
Jur' pred' in absentia
Attorn' qui defalt' inde
fec'it & extraponet ex
iisdem quadraginta &
octo Jur' duodecim ex
utraq; parte. Et resid'
Jur' retorn' foret per
Vicecom' ad triand'
Exit'.

Secondary at the Time by
him appointed for the na-
ming of the Jurors aforesaid
or to strike out Twelve of
either Part, in such Case the
said Secondary shall name
the Jury aforesaid, in the
Absence of the Attorney
who shall make Default
thereupon, and shall strike
out of the said Forty-eight
Jurors Twelve on the Behalf
of either Party, and the rest
of the Jurors shall be return-
ed by the Sheriff to try the
Issue. (d)

Reg. 3. — 8 W. III. 1696.

Bail.

ORDERS to be observed by Commis-
sioners for taking special Bail in the Coun-
try upon Actions and Suits depending or to be de-
pending in his Majesty's Court of King's Bench. (e)
First, It is Ordered, That the Bail-piece
shall be fairly drawn and ingrossed on Parchment
in the Form following.

Midd' ff. **J**ohannes Middlesex, to wit, **J**ohannes
Doe de Doe of
A. B. Islings' in A. B. At- Islington in the
Attorn' Com' pred' turney for County aforesaid,
proDef. Gen. tradi- the Defen- Gent. is deli-
tur in Ball' dant. vered on Bail up-
on a Capi Corpus

super Capi Corp'
Johanni Denn de
Hackney in Com'
pred' Gen.
Rich' Fenn de
Highgate in Com'
pred' Gen. ad sec-
tam Richardi Doe.

To Jo. Denn of Hack-
ney in the County afore-
said, Gent.

And to Richard Fenn
of Highgate in the Coun-
ty aforesaid, Gent. at
the Suit of Richard Doe.

Cap' & Cognit'
— dit —
1696 coram
A. B. un'
Commissio-
nar', &c.

Taken and acknow-
ledged the -- Day
of -- 1696 before
A. B. one of the
Commissioners,
&c.

[k] And

(a) Also every Recordari, Pont, Accedas ad Cur' (except de Averis & Catallis) Attind', Conspiracy, False Judgment and Medimus Potestatem, do pay Fine to the King. 6 s. 8 d.

(b) See Easter, 5 Geo. II. reg. 3. and the Note there.
(c) Every Writ of Alias Sci' fa' should bear Teste the Day of the Return of the First, unless it be a Sci' fac' quare executionem non on a Writ of Error. Salk. 599. 6 Mod. 86. Every Sci' fac' by Original ought to have 15 Days inclusive between the Teste and Return, unless helped by the Stat. 16 Car. I. cap. 6. & 13 Car. II. cap. 2. But if the Proceedings are by Bill, then there must be 15 Days inclusive between the Teste of the First and Return of the Second Scire facias. Mod. Cases in Law and Equity 227, 305. Salk. 599. and each Sci' fac' should have seven Days between the Teste and Return.

(d) Formerly the Secondary and Under-Sheriff (who attends with the Book of the Freeholders Names) had each a Guinea a Side from the Plaintiff and Defendant; but since the Stat. 3 Geo. II. cap. 25. the whole Charge lies on the Party applying for a special Jury. (e) Stat. 4 & 5 W. & M. cap. 4.

And in taking of the Recognizances, these or the like Words must be used, viz.

You (calling the Bail by their Names) do jointly and severally undertake, that if the Defendant (naming his Name) shall be condemned in this Action at the Suit of the Plaintiff (naming his Name) he shall satisfy the Costs and Condemnation, or render himself into the Custody of the Marshal of the Marshalsea of the Court of King's Bench, or you will pay the Costs and Condemnation for him.

And if any Bail be given upon any Action or Actions removed out of any inferior Court by Writ of Habeas Corpus, (a) and returnable in the Court of King's Bench, then instead of writing upon a Capi Corpus, as before, you must write upon a Writ of Habeas Corpus; and instead of writing the Plaintiff's Name (as aforesaid) you must write at the Suit of the Plaintiff in the Plaint; and the Cognizors must undertake that if the Defendant be condemned at the Suit of the Plaintiff or Plaintiffs in the Plaint, that he shall satisfy the Costs and Condemnation, or render his Body, &c. as aforesaid.

Secondly, It is Ordered, That the Affidavit for the due taking of every such Bail shall be made either before some Judge of the King's Bench, to whom the Bail shall be transmitted, or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court. (b)

Thirdly, It is Ordered, That all Bails taken by any Commissioner within the Distance of Forty Miles from the Cities of London and Westminster, shall be transmitted to the Lord Chief Justice of the Court of King's Bench, or to one of the Justices of the said Court, within eight Days after the taking thereof; and all Bails taken by any Commissioner above the Distance of Forty Miles from the said Cities of London and Westminster, shall be transmitted within (c) fifteen Days after the taking thereof, unless all the said Justices shall be in their Circuits, and then as soon as any one of them shall be returned to his Chamber in one of the Sergeants Inns.

Fourthly, Also every Commissioner is to have a Book kept purposely for entering the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail-piece, and the Time of taking thereof, and the Name of him by whom such Bail shall be transmitted; and also the Name of the Attorney for the Defendant. And,

Fifthly, It is further Ordered, That the Plaintiff's Attorney shall be at Liberty to re-

pair to the Commissioners Book for the Names of the Bail, to the end that they may inquire of the Sufficiency of them; and if they are found insufficient, they may except against them within twenty Days after the said Bail is transmitted, and Notice to the Plaintiff or his Attorney, of the taking thereof: And in that Case the Defendant must either put in better Bail, or the Cognizors of such Bails must (d) justify themselves in open Court, either (e) by Affidavit taken before such Commissioner that took the said Bail, or by Oath made in Court, or before one of the Judges of the said Court.

J. Holt, } } W. Gregory,
W. Dolben, } } G. Eyre.

Die Lune prox' Easter, 9 W. III.
post Crast' Ascen' 1697.
Dom' Anno 9
W. Regis.

Ordinatum est qd' nullus Rotulus placitorum affiletur post finem prox' subsequen' Termini de quo affilari debuit, Nisi licentia ad hoc faciend' dat' fu'it per Regulam Cur' & Secundar' talem Regulam subscripserit.

Rolls.
It is Ordered that no Plea Roll be filed after the end of the next subsequent Term of which it ought to be filed unless Leave shall be given to do it by Rule of Court, and the Secondary shall subscribe such Rule. (f)

Die Mercurii prox' Trin. 9 W. III.
post tres Septim' 1697.
Sta' Trin' Anno
9 W. tertii Reg'.

Ordinatum est qd' si Judicium reddit' sit versus aliquem Defend' existen' Prisonar' in actual' Custod' Mar' hujus Cur' si idem Defend' minime onerat' fu'it in Custod' ejusdem Mar' super eodem Judicio in Executione ante finem

Prisoners.
It is Ordered, that if Judgment be given against any Defendant being a Prisoner in actual Custody of the Marshal of this Court, if the same Defendant shall not be charged in Custody of the said Marshal upon the same Judgment

(a) Hil. 10 W. III. (b) If the Affidavit be sworn before a Commissioner, it must be drawn in Form and annexed to the Bail-piece to be filed together. (c) By Reg. Mich. 8 Ann. In all Counties except London and Middlesex the Defendant has six Days after the Return of the Process to put in Bail, and by this Rule eight to transmit it if within Forty Miles, being in all fourteen Days; if above Forty Miles, then six to take it in, and fifteen to transmit, in all Twenty-one; which Times are to be observed by the Defendant, or the Bail-Bond may be assigned. (d) See East. 5 Geo. II. for Time of justifying. (e) The Affidavit must set forth that they are Housekeepers, and are respectively worth so much (mentioning the Sum they are Bail for) after all their Debts are paid, or exclusive of all Debts or Demands, due from them to any Person or Persons whatsoever. Easter, 5 Geo. II. reg. 1. (f) See Mich. 9 W. III. & Mich. 5 Ann.

*finem Secundi Termini
post Judicium verus e-
undem defend' obtineat
(nulli Breui de Error
superinde pendit) qd'
tunc Commune Ballium
affiliabitur pro tali De-
fend' super notitiam in-
de Attorn' pro Quer' in
tali Judicio prius dand'.*

ment before the end of the second Term after Judgment obtained against the same Defendant (no Writ of Error being pending thereupon) that then common Bail shall be filed for such Defendant upon Notice thereof first given to the Attorney for the Plaintiff in such Judgment. (a)

*Die Sabbati prox'
post Octab' Sti
Martini Anno 9
W. tertii Regis.*

Mich. 9 W. III.
1697.

Rolls.

O *ordinatum est qd'* omnes & singuli Cler' Capital' Cleric' hujus Cur' intul' int' separales Rotulos de hoc instante Termino ante diem Effon' prox' Termini, Ita qd' affilantur de isto Termino Accitiam Rotulos de Termino Sancti Hillarii ante diem Effon' Termini Pasche prox' sequen' Et Rotulos de Termino Pasche prox' sequen' ante finem Termini Sancti Trinitatis prox'. Et Rotulos de Termino Sancti Trinitatis ante diem Effon' Term' Sancti Michaelis prox' ad affiland' finititer. Et sic quolibet Termino successivo: Et qd' nulli Rotuli de cetero recipiantur post separalia tempora supradicta absq' Special' Reg' Cur' in contrar' obtinenda.

It is Ordered that all and singular the Clerks of the chief Clerk of this Court shall bring in the several Rolls of this present Term before the Effoin-day of the next Term, so that they may be filed that Term, and also the Rolls of Hillary Term before the Effoin-day of Easter Term next following, and the Rolls of Easter next following before the end of Trinity next, and the Rolls of Trinity Term, before the Effoin-day of Michaelmas Term next, to be filed in like Manner, and so in every Term successively, and that no Rolls for the future be (b) received after the several Times aforesaid, without a special Rule of Court to the contrary be obtained. (c)

*Die Veneris prox'
post Crast' Ste
Trin' Anno 10
W. tertii Regis.*

Trin. 10 W. III.
1698.

O *ordinatum est qd'* omnes & singuli Cler' Capitalis Cleric' hujus Cur' intul' int' Rotulos de quolibet Term' Pasche hic in Cur' ante primam diem quilibet Termini Sancti Trinitatis, Ita qd' iidem Rotuli affilantur. Et uti ordinat' est qd' separal' Rotuli de uti' Termino nondum affilati prolati erint hic in Cur' indilate per separal' Clericos p'ced', ita quod tal' Rotuli affilantur de eodem Termino.

It is Ordered, that all and singular the Clerks of the chief Clerk of this Court shall bring in the Rolls of every Easter Term here in Court before the first Day of every Trinity Term, so that those Rolls be filed. And it is further Ordered, that the several Rolls of the last Term not yet filed shall be brought here in Court without delay by the several Clerks aforesaid, so that such Rolls be filed of the same Term. (d)

*Die Jovis prox'
post Octab' Ste
Trin' Anno 10
W. tertii Regis.*

Hil. 10 W. III.
1698.

O *ordinatum est qd'* nulli Ballium su'it impo'it super aliquo Breui de Habeas Corpus priusquam Breve illud su'it retinuat. Et qd' tale Ballium non cap' su'it per aliquem Justiciari' hujus Cur' Nisi Breve ill' cum re-torn' inde oblat' su'it coram Justiciari' p'ced' tempore Impositionis inde ad affiland'.

It is Ordered that no Bail shall be put in upon any Writ of Habeas Corpus before that Writ be (e) returned, and that such Bail shall not be taken by any Justice of this Court, unless that Writ with the Return thereof shall be offered before the said Justice to be filed at the Time of putting in thereof. (f)

Die

(a) See Trin. 2 Geo. II. Former Rule Easter, 16 Car. II. (b) The Custos Brevium now indulges the Clerks by attending the Day but one before every Term, except Trinity when he attends the Day preceding that Term, to receive and file their Rolls. (c) See Trin. 10 W. III. & Mich. 5 Ann. (d) See Mich. 9 W. III. & Mich. 5 Ann. (e) At the Return of the Writ the Plaintiff may have a Rule for a Proce'dendo, unless the Defendant put in Bail in four Days after Notice of the Rule, if in Term: If in the Vacation, then a Rule or Warrant for a Proce'dendo, unless good Bail be put in within six Days after Notice thereof. See Mich. 16 Car. II.

(f) See Eng. 29 Car. II. Hil. 2 Jac. II. 8 W. & M. 1696. reg. 3. Mich. 1651.

Die Mercur' prox'
post quinq; Sep-
timan' Pasche
Anno 11 W. ter-
tii Regis.

East. 11 W. III.
1699.

Demurrer, Paper Books

Ordinatum est qd' si aliquis Querens hic in Cur' morabitur in lege alicui placito rejunctiōi vel rebutter per aliquem Defend' hic in Cur' exhibet & talis Defend' jungit in tali moratione in lege qd' tunc Attorn' pro Quer' intrabit de Recordo talem moration' in lege. Et in defect' inde super Regulam per Secundar' hujus Cur' dat' pro intration' talis morationis in lege. Attorn' pro Defend' intrabit de Recordo talem morationem.

It is Ordered that if any Plaintiff here in Court shall Demur in Law to any Plea, Rejoinder or Rebutter by any Defendant here in Court exhibited, and such Defendant joins in such Demurrer in Law, that then the Attorney for the Plaintiff shall enter of Record such Demurrer in Law, and in Default thereof, upon a Rule given by the Secondary of this Court for entring of such Demurrer in Law, the Attorney for the Defendant shall enter of Record such Demurrer. (a)

Eodem Die. The same Term.

Bail.

Ordinatum est qd' in aliqua Actione hic in Cur' prolat' ubi Defend' secund' Cursum hujus Cur' Special' Ballium imponere debet qd' talis Defend' in separabilibus Terminis Sti' Hillarii & Sti' Trinitat' habebit licentiam ad imponend' sufficient' Ballium ad Sectam alicujus Quer' ante diem Continuation' per Secundar' hujus Cur' apponend' post Clausum Terminor' præd'. Et qd' infra tempus præd' Quer' non prosecut' fuit aliquem Process' versus Defend' vel ejus manu-

It is Ordered that in any Action brought in this Court where the Defendant according to the Course of this Court ought to put in special Bail, that such Defendant in the several Terms of St. Hillary and the Holy Trinity, shall have leave to put in sufficient Bail at the Suit of any Plaintiff, before the Day of Continuance by the Secondary of this Court to be appointed after the end of the aforesaid Terms. And that within the Time aforesaid the Plaintiff shall not sue any Process against the Defendant or his Bail, upon the Bail-

captore sup' Scriptum obligator' Vic' vel Ball' libertat' dat' pro comparere Defend'.

Et ulterius Ordinatur est qd' in separabilibus Terminis Sti' Michaelis & Pasche si Defend' arrestat' fuit infra Civit' London' vel Com' Midd' super aliquem Process' extra Cur' hic emanat' qd' Defend' habeat licentiam ad imponend' sufficient' Ballium ad Sectam Quer' ad aliquod tempus infra octo dies prox' post retorn' hujusmodi Breviis vel precept' & infra quatuordecim dies prox' post retorn' alicujus Breviis in aliquo al' Comitatus prosecut'.

Bond given to the Sheriff or Bailiff of a Liberty, for the Appearance of the Defendant.

And it is further Ordered that in the several Terms of St. Michael and Easter, if the Defendant shall be arrested in London or Middlesex, upon any Process issuing out of the Court here, that the Defendant shall have leave to put in sufficient Bail at the Suit of the Plaintiff, at any Time within eight Days next after the Return of such Writ or Precept, and within fourteen Days next after the Return of any Writ sued in any other County. (b)

Die Jovis post
Crastin' Pur'
beat' Marie Anno
11 W. tertii.

Hil. 11 W. III.
1699.

Inrolment of Deeds.

Ordinatum est qd' omnia facta & Indentur' in Cur' hic vel coram aliquo Justiciario hujus Cur' cognita de cetero imperpet' irrotulentur inter Rotulos Capitalis Clerici hujus Cur' ad placita irrotulanda assign' & non alibi. Quodq; qualibet persona aliquod tale fact' vel Indentur' imposterum in Cur' hic irrotulanda cognoscen' comparere publice in Cur' & hujusmodi factum vel Indentur' cognoscat in aperta Cur' quodq; quodlibet factum cognit' coram aliquo Justicio extra Cur' prolat' fuit hic in Cur' per hujusmodi Justic' propriis manibus ad irrotulanda.

It is Ordered that all Deeds and Indentures acknowledged here in Court or before any Justice of this Court for the future, shall be inrolled among the Rolls of the chief Clerk of this Court assigned to inroll Pleas and not elsewhere, and that every Person acknowledging any such Deed or Indenture hereafter in Court to be inrolled, shall appear publicly in Court and acknowledge such Deed or Indenture in open Court, and that every Deed acknowledged out of Court before any Justice, shall be brought here into Court by such Justice to be inrolled.

Trin.

(a) If the Plaintiff Demurs, or takes Issue on the Defendant's Plea, Rejoinder or Rebutter, and the Defendant in Case of a Demurrer joins therein, and the Plaintiff will not make up the Book and enter it on Record, the Defendant may pursuant to this Rule make up the Book and enter it; and when he has made up the Book he must deliver it to the Plaintiff and pay him for the Entry of his the Defendant's Pleadings, because the Plaintiff may perhaps enter the Issue, as he has a Right to do at any Time before the Expiration of the above mentioned Rule given by the Secondary, which Rule ought to be served on the Plaintiff at the same Time the Book is delivered to him. If the Plaintiff does not enter the Issue, the Defendant may, at the Expiration of the Rule, and give Notice of Trial by Proviso; but then the Plaintiff ought to return to the Defendant the Money he received from him for the Entry on his Part. (b) The Practice altered by a Rule made Mich. 8 Ann.

Trin. 12 W. III. 1700.

Declarations, Issues, Demurrers.

Whereas the Defendants Attorneys, and others, who have appeared for Defendants in this Court, and to whom Declarations have been delivered by the Course of the Court, do make Copies of the said Declarations, and charge their Clients 4 d. per Sheet for every such Copy, and afterwards do frequently pretend they have either lost the same, or willfully refuse to deliver back to the Plaintiff's Attorney such Declarations when called for, which they ought to do, whereby many Inconveniencies and manifest Delays have been, and daily do happen to the Plaintiffs Proceedings; for Remedy whereof,

It is Ordered, That from and after the first Day of next Michaelmas Term, upon the Appearance of any Attorney, or other Person, for any Defendant in this Court, the Plaintiff's Attorney shall not be bound to deliver to the Defendant's Attorney the Original Declaration; but instead thereof, shall deliver a true Copy of such Declaration, and that upon the Delivery, or Tender thereof, the Defendant's Attorney, or other Person acting for him, shall pay unto the Plaintiff's Attorney, or other Person acting for him, for the Copy of such Declaration, after the Rate of 4 d. (a) per Sheet Copyways, together with the Stamps or King's Duty thereon, which shall serve and be in lieu of the Copy of such Declaration usually made by the Defendant's Attorney: And that upon pleading any General Issue or General Demurrer to any Declaration before any special Demurrer or special Plea pleaded, the Plaintiff's Attorney shall and may deliver unto the Defendant's Attorney a Copy of such (b) Issue or Demurrer, who shall pay for the same after the Rate of 4 d. per Sheet Copyways, and also for the Stamps thereon. And if any Attorney, or other Person, shall refuse to pay for the Copy of any Declaration so as aforesaid tendered, the Plaintiff's Attorney shall and may leave the said Copy of such Declaration in the (c) Office, with the Clerk that keeps the Files of Declarations of this Court, who shall receive the same without Fee or Reward; and thereupon the Plaintiff's Attorney, giving Rules to plead, may for want of a Plea sign Judgment; and before any Plea shall be received, the Defendant's Attorney shall pay for the (d) Copy of such Declaration, and

the Stamps as aforesaid. And in case the Defendant's Attorney shall not pay for the Copy of any General Issue or Demurrer, so as aforesaid joined, and also for the Stamps, the Plaintiff's Attorney may sign Judgment, as if no Plea or Demurrer had been given or pleaded.

J. Holt. Jo. Turtom. H. Gould.

RULES and ORDERS

OF THE

Court of King's Bench.

*Die Jovis prox'
post tres septi-
man' Sta' Trin'
Anno 1 Anne
Regine.*

Trin. 1 Anne,
1702.

I. O *Ordinatum est*
qd' si aliqua
persona sive persona
existen' vel imposterum
devenien' Pleg' sive
manucaptor' in Cur' hic
pro aliquo Defend' in
aliqua Actione quacun-
que & implitat' fue-
runt per Actionem De-
biti super Recogn' in
hujusmodi Secta cognit'
hujusmodi persona sive
persona habebunt licen-
tiam ad reddend' hujus-
modi Defend' Custod'
Mar' hujus Cur' in exone-
ratione manucaptor' su-
or' per spatium octo die-
rum integror' in pleno
Termino prox' post re-
turn'

Bail.
It is Ordered, That
if any Person or Per-
sons being, or that hereaf-
ter shall become Bail or
Manucaptors in this Court,
for any Defendant in any
Action whatsoever; and
shall be impleaded by Action
of Debt upon the Recogni-
zance, in such Suit acknow-
ledged; such Person or Per-
sons shall have Liberty to
render such Defendant into
the Custody of the Marshal
of this Court in Discharge
of his Bail, by the Space of
eight intire Days in full
Term, next after the Re-
turn of the Writ of Latitat,
[1] or

(a) 4 d. per Sheet (computing 72 Words to a Sheet) and Duty. (b) The Attornies of this Court make up the Issue and Demurrer Books in the following Cases, viz. Every Issue that may be given on the Book Side. Not Guilty to a new Assignment, the Bar of Son frank Tenement, Comperuit ad diem to a Sheriff's Bond. Nul tiel Record to an Action of Debt on a Judgment. A General Demurrer to a Declaration. In Covenant where the Defendant in his Bar concludeth to the Country. Every Special Non est factum, every Son assault demesne, and likewise all Issues and Demurrers upon Writs of Error, Scire facias & Audita querela, and all Repleaders or other Things formerly entered of Record. In all other Cases both by Bill and Original the special Pleadings are to be left with the Clerks of the Papers, who make Copies thereof, and when Issue is joined the Paper Books are made up by them. (c) And give Notice thereof; see Trin. 2 Geo. II. (d) Judgment may be signed for not taking the Declaration out of the Office.

toru' Brevis de Latitat vel al' Process. versus hujusmodi manucaptor' prosecut'. Et super notitiam inde dat' Quer' vel ejus Attorn' in Secunda praed' cess. omnis ulterior Process. versus hujusmodi Pleg' sive manucaptor' super Recogn' praed'.

or other Process sued out against such Bail; and upon Notice thereof given to the Plaintiff, or his Attorney, (in the Suit aforesaid) all further Proceedings against such Bail or Manucaptors upon the Recognizance aforesaid, shall cease. (a)

Die Mercurii prox' post tres Sept' Sic Trin' 3 Anno Anne Reginae.

Trin. 3 Anne, 1704.

Eodem Die. The same Day, 1702.

Bail.

II. *Ordinatum est qd' ubi aliquis Defend' in aliqua Actione hic in Cur' pendet' reddit' su'it Custod' Mar' hujus Cur' in exoneratione manucaptor' suor' Attorn' pro tali Defend' indilate dabit notitiam de tali redditione Attorn' pro Quer' & praestit'it Sacramentum inde priusquam Bail' in Actione illa fuit affilat' seu exonerat' & in defectu inde talis redditi vacua erit.*

II. **I**t is Ordered, That where any Defendant in any Action here in Court depending, shall be (b) rendered into the Custody of the Marshal of this Court in Discharge of his Manucaptors, the Attorney for such Defendant shall without Delay give (c) Notice of such rendering to the Plaintiff's Attorney, and shall make Affidavit thereof before the Bail in that Action shall be filed or discharged, and in Default thereof such Rendering shall be void.

Ordinatum est qd' ubi aliqua persona reddet se in Cur' hic vel coram uno Justic' hujus Cur' in exoneratione manucaptor' suorum vel duell' su'it super Breve de Hab' Corp' hic in Cur' vel coram Justic' praed' in ordine ad committend' Custod' Mar' hujus Cur' tale Reddidit se vel Breve de Hab' Corp' unacum retorn' inde remaneat cum Secundar' hujus Cur' vel Clerico Justic' coram quotalis persona reddit' vel duell' su'it fore affiland'. Et qd' Copia sive nota tantum talis reddition' vel retorn' Brevis de Hab' Corp' sub manu talis Justic' vel Secundar' deliberat' su'it Mar' hujus Cur' tempore commissi. talis persone Custod' sue. Et talis Copia sive nota fact' & preparat' su'it per personam sic se reddent' vel prosequen' tale Breve de Hab' Corp' vel per Attorn' suum ex parte sua.

It is Ordered, That where any Person shall render himself here in Court or before one of the Justices of this Court in Discharge of his Manucaptors, or shall be brought here in Court upon a Writ of *Habeas Corpus*, or before the Justices aforesaid, in order to be committed to the Custody of the Marshal of this Court, such Reddidit se or Writ of *Habeas Corpus*, together with the Return thereof, shall be left with the Secondary of this Court, or the Judge's Clerk before whom such Person was rendered or brought to be filed; and that a Copy or Note of such Rendering or Return of the Writ of *Habeas Corpus* under the Hand of such Justice or the Secondary, shall be delivered to the Marshal (d) of this Court at the Time of the Commitment of such Person to his Custody; and such Copy or Note shall be made and prepared by the Person so rendering himself or prosecuting such Writ of *Habeas Corpus*, or by his Attorney on his Behalf.

Bail.

Mich.

(a) If a Writ of Error be brought on the Judgment in the Original Action, the Court will stay Proceedings upon the *Scire facias* against Bail, till the Determination of the Writ of Error, upon the Bail's Undertaking to render the Defendant into the Custody of the Marshal, or pay the Money recovered, if Judgment be affirmed, within four Days next after the Affirmance thereof, and likewise agreeing to bring no Bill in Equity. *East. 8 Geo. II. Myer v. Arthur.*

(b) Bail may take the Principal on a Sunday, and render him the next Day. 6 Mod. 231.

(c) If Bail render the Principal at or before the Return of the Alias *Scire facias*, it is good tho' there be no immediate Notice to the Plaintiff; but if thro' want of Notice the Plaintiff proceeds further against the Bail, they shall not be delivered till they pay such Charges. Mich. 3 Ann. 6 Mod. 238. So if the Bail-piece be filed without being first discharged by the Secondary, the Bail remain liable tho' the Defendant be actually in Prison. See Salk. 98. Mod. Ca. in Law and Eq. 282, 340. In Strictness of Law on a Non est inventus returned on the *Capias ad Satisfaciendum* awarded and filed, the Bail are liable tho' the Principal should then die. Mod. Ca. in Law and Eq. 31. For it is by the Grace and Favour of the Court, that they have Time to render the Defendant on or before the Return Day of the second *Scire facias*, sedente Curia, or of the first where a *Scire feci* is returned. See Trin. 8 W. III. East. 5 Geo. II. If the Bail at any Time after the Return of the Ca' Sa' render the Principal at a Judge's Chambers, and be thereupon committed to the Tiffstaff from whom he Escapes or is Rescued, that will not be a good Rendering, because it is an Indulgence of the Court to the Bail, to render after a *Capias* returned. 6 Mod. 238.

(d) It is usual to make an Entry of the Render in the Marshal's Book kept in the King's Bench Office. See Salk. 272. When the Principal is surrendered, get a Certificate from the Prison, that the Defendant is in Custody, and thereupon the Master will discharge the Bail-piece; for till that is discharged, the Bail are liable. And see the foregoing Rules.

Mich. 3 Anne, 1704

Attornies.

W Hereas divers Complaints have been made to us, that many Attornies and Clerks of the several Courts at Westminster are not admitted of any of the Inns of Court or Chancery, according to (a) ancient Course and Usage by which they might be resorted to, and Business of Law better managed to the greater Ease of the Queen's Subjects, the Neglect whereof is to the great Detriment and Decay of the Societies of the Law, and divers Inconveniencies do thereupon daily happen; for Prevention whereof, and to establish a Remedy for the future,

It is ordered by the Judges of the several Courts of Queen's Bench and Common Pleas, and the Barons of the Court of Exchequer at Westminster, That all Attornies and Clerks of the said Courts not already admitted into one of the Inns of Court or Chancery shall procure themselves to be admitted into one of the said Inns of Court (if those Honourable Societies shall please to admit them) or into one of the Inns of Chancery before the End of Trinity Term now next ensuing, and take Chambers there (if conveniently they may be had) else that they take Lodgings in some convenient Place near the said Inns, and leave Notice in Writing with the Butler or Porter of such Inn whereof they are admitted, where their Lodgings or Habitations are, except such Persons who are or shall be hereafter Inhabitants or House keepers in London, Westminster, Southwark, or the Suburbs thereof, and Liberty of the Tower of London and St. Katherine's there, and such who are sworn Attornies of any Courts within the said Cities, Town and Liberties.

and it is further hereby ordered, That for the future no Person whatsoever shall be sworn an Attorney, or admitted or entered a Clerk of any of the said Courts, or Offices thereunto belonging (except the Persons before excepted) unless first admitted of one of the Inns aforesaid, and bring and produce at the Time of his being (b) sworn an Attorney, or admitted, or entered a Clerk as aforesaid, a Certificate under the Hand of the Treasurer or Principal of the Inn whereof he is admitted, which they are respectively to give without being paid any Thing for the same, testifying such his Admission; which Certificate every Attorney or Clerk so sworn of the said Court of Queen's Bench shall deliver to the Secondary of the said Court, and every Attorney so sworn of the Court of Common Pleas shall deliver to the Clerk of the Warrants of the said Court, and every Clerk of the said Court so admitted or entered shall deliver to the respective Prothonotary, of whose Office he shall

be admitted, and every Attorney so sworn of the said Court of Exchequer, or Clerk seated in any of the Offices belonging to the said Court, shall deliver to the Queen's Remembrancer, or his Deputy for the Time being, to be by the said respective Officers filed before the Name of such Attorney shall be entered into the Roll of Attornies, or such Clerk admitted, entered, or seated as aforesaid; unto which file of Certificates the respective Treasurers and Principals of the said Inns of Court and Chancery shall or may from Time to Time resort, as they shall see cause, without paying any thing for the same.

And it is further ordered, That no Attorney already sworn, or Clerk already admitted, entered or seated, or which hereafter shall be sworn, admitted, entered or seated, and which are or shall be admitted into any of the Societies aforesaid, shall put himself out of the Society whereof he is or shall be admitted, until he be admitted of some other of the said Societies, and deliver to the Treasurer or Principal of such Society whereof he was first a Member a Certificate in Writing signed by such Treasurer or Principal, testifying his being admitted of such other Society, except such Person shall totally leave off, the Practice of the Law, as an Attorney or Clerk in any of the said Courts.

And whereas by the Usage, Custom or Orders of the Inns of Chancery, the Members thereof were obliged to and did come into Commons and continue therein, according to the Orders of such Society, to their great Ease in transacting their Causes one with another, and much Benefit to their Clients; but of late most or a great Number of the said Attornies and Clerks have neglected to come into Commons or continue therein according to the respective Orders of the said Inns of Chancery, to the great Decay and Detriment of those Societies.

It is further ordered, That from the End of this present Term, the Attornies and Clerks which now are, or shall be admitted into any of the Inns of Chancery, do and shall come into and continue in Commons for the Time or Times as by the Orders of such Society whereof they are or shall be admitted, is, are, or shall be ordered, limited or appointed for them so to do; and in case any Attorney or Clerk aforesaid shall offend against this Rule or any Part thereof, such Attorney shall be put out of the Roll of Attornies, and such Clerk so offending shall be discharged and displaced from such Office to which he belongs, until he or they give Obedience to this Order. And the Secondary of the said Court of Queen's Bench, and the respective Prothonotaries and Clerk of the Warrants of the Court of Common Pleas, and the Queen's Remembrancer of her Court of Exchequer, or his Deputy for the Time being, and all other

Officers

(a) Former Rules, Mich. 1654. Trin. 29 Car. II. Mich. 36 Car. II. (b) No Person can Practice as an Attorney, unless he has served five Years, and is sworn, admitted and enrolled, pursuant to the Stat. 2 Geo. II. cap. 23.

Officers whom it may concern, are hereby required to give Obedience to this Order, and see that the same, as to themselves be duly observed.

And for the more effectual and better putting in Execution this Order, and that it may procure the good hereby designed and intended;

It is hereby further Ordered, That the respective Treasurers and Principals of the Inns of Chancery, and the Ancients, Rulers and Governors of the same do and shall from Time to Time, by such Ways and Means as they shall see fit and convenient, procure and get a List of the Names of such Attornies and Clerks of the said respective Courts who are not admitted of any of the said Inns of Court or Chancery, which List the said Treasurers and Principals, Ancients, Rulers and Governors shall yearly in Michaelmas Term deliver unto the Right Honourable the Lords Chief Justices and Lord Chief Baron of the said respective Courts for the Time being, to the Intent the Offenders against this Order may be compelled to give Obedience to the same.

And it is also hereby further Ordered, That the said Treasurers, Principals, Ancients, Rulers, and Governors, in like manner procure and get a List of the Names of such Persons as take upon them to practice as Attornies or Clerks in any of the said Courts who are neither sworn Attornies, or admitted, entred or seated Clerks in any of the Offices of the said Courts, which List is to be delivered as above, to the Intent that such Offenders may be proceeded against in such Manner as shall be thought fit.

John Holt,	}	John Powell,	}	R. Tracy,
Tho. Trevor,		Lit. Powis,		Tho. Berry,
Edw. Ward,		Jo. Blencowe,		Ro. Price,
Edw. Nevill,		H. Gould.		J. Smith.

I

Die Martis prox'
post Octab' Sancti
Martini Anno
quarto Anne
Regine.

Mich. 4 Anne,
1705.

Notice of Trial.

Ordinatum est qd' si Defend' in aliqua Actione in London' vel Midd' & ad Session' Domini Capitalis Justic' huj' Cur' triand' intrabit ne recipiatur & Ratio ne inde impeditur Quer' qd' non procedere possit ad eandem Session' quod tunc bene licuit eidem Quer' ad procedend' ad triationem in Causa predicta ad prox' Session' dicti Capitalis Justic' post Intrationem de prae' ne recipiatur super Notic' durante predicta prima Sessione dand'.

It is Ordered, That if the Defendant in any Action in London or Middlesex, and to be tried at the Sittings of the Lord Chief Justice of this Court, shall enter a Ne recipiatur and by reason thereof hinder the Plaintiff that he cannot proceed at that (a) Sitting, that then it shall be lawful to the said Plaintiff to proceed to Trial in the said Cause at the next Sitting of the said Chief Justice after the entering of the said Ne recipiatur, upon Notice (b) given during the said first Sittings. (c)

Die

(a) But if a Cause is to be tried at the Sittings after Term, no Ne recipiatur can be entered, until after Proclamation made by Order of the Chief Justice for bringing in the Records; and then if the Record be not brought in, the Defendant's Attorney may enter a Ne recipiatur.

(b) Notice is to be given before the Rising of the Court. See Hil. 15 & 16 Car. II.

(c) Likewise if Notice of Trial be given for a Day certain in London or Middlesex, and the Plaintiff is not ready to proceed, the Cause may be tried the next Sitting, upon the like Notice, as when a Ne recipiatur is entered by the Defendant; and in either Case, if the Cause be not tried at such next Sitting, Notice is to be given as at first, unless it be made a Remanet, and then new Notice of Trial is never given; for the Defendant is bound to attend till the Cause be tried.

All Notices of Trial or of executing Inquiry and Countermands ought to be in Writing.

Eight Days exclusive is sufficient Notice of Trial or of executing Inquiry in all Cases, except Causes in London and Middlesex, where the Defendant lives above forty computed Miles from London, then fourteen Days Notice must be given; and likewise except Causes wherein no Proceedings have been had within four Terms after Issue joined, then a Term's Notice must be given, and so likewise by proviso, unless the Cause has been stayed by Injunction or Privilege.

Sunday is to be accounted a Day in these Notices, so it be not the Day on which the Notice is given. Mod. Cases in Law and Equity 21.

Notice of Trial must be given by the Defendant to the Plaintiff in all Causes by proviso, Easter, 1651. and if the Defendant does not proceed according to his Notice, or Countermand in Time, the Plaintiff shall have his Costs.

Two Days Notice of a Countermand of Trial is sufficient, unless it be of a Trial at the Assizes, and the Countermand is given to the Agent in Town, in which Case it ought to be given four Days before the Commission Day.

If the Plaintiff does not proceed to Trial, or Countermand in Time, the Defendant, on Affidavit of Attendance and necessary Expences, shall have his Costs, to be taxed by the Secondary. Mich. 1654. sect. 18. But altho' the Plaintiff does not proceed to Trial, whereby Costs are taxed for the Defendant, and afterwards gives new Notice of Trial, yet the Court will not stay the Trial for not paying those Costs, (except in Ejectment) because the Defendant hath another Remedy to recover them.

If

If the Plaintiff does not try his Issue within the Time he ought by the Course of the Court, the Defendant having given a Rule for the Plaintiff to enter his Issue, (if not already entered) and the Issue being entered, may have a *Venire* by proviso and try the Cause. If the Plaintiff does not enter his Issue within the Time allowed by the Rule, he shall be nonsuited, and the Defendant shall have his Costs.

The Plaintiff must enter his Issue if the Action be laid in London or Middlesex, and bring the Record into the Office within four Days after Notice of the Rule, if in the Country, before the Continuance-day of that Term, or a Non-pros may be signed and entered.

If the Action be laid in London or Middlesex, the Defendant ought not to give a Rule for the Plaintiff to enter his Issue the same Term in which the Issue is joined, unless Notice of Trial hath been given; and in a Country Cause the Plaintiff is no ways bound to enter his Issue the same Term.

No Trial can be had by Proviso in London or Middlesex till Default made by the Plaintiff after the Issue is entered on Record, nor in Country Causes till the Plaintiff hath made Default in trying his Issue the next Assizes after the Issue is entered; and in neither Case till a Rule for a Trial by Proviso be entered.

If both Plaintiff and Defendant happen to carry down the Record at the same Time, the Trial shall be by the Plaintiff's Record, if he enters it with the Marshal; but if he refuses or omits, the Defendant may proceed on his Record.

The Plaintiff may countermand Notice of Trial tho' it be a Trial at Bar, (which are always appointed by the Court) and prevent the Cause being tried at the Day, nor can it be brought to Trial, unless some Day be appointed again by the Court.

Trials at Bar are never allowed in an Issuable Term unless the Crown be concerned in Interest.

Die Sabbati prox'
post Mens' Pas-
che Anno 5 An-
ne Regine.

Easter, 5 Anne,
1706.

Special Impar lance.

Ordinatum est qd'
Special' Li' Lo'
non allocetur Defend'
sine licent' hujus Cur'
prius obtent'.

It is Ordered, That a
Special Impar lance shall
not be allowed the Defen-
dant, without the Leave of
this Court first obtained. (a)

Mich. 5 Anne, 1706.

Incipitur, Rolls, Records.

I. FOR avoiding many Inconveniencies and
Mischiefs which Daily happen to the
Queen's Subjects who prosecute Suits in this
Court, through the Neglect and Misfeasance of
many of the Attornies of this Court, and other
Persons who practise as such, in not entering on

Record their several Judgments, Issues, and
other Proceedings and Process in this Court,
to the great Damage and Loss of their Clients.

It is therefore Ordered by this Court, That
from and after the first Day of next Hillary
Term, every Judgment in Debt, Case, Cove-
nant, Trespass, Trover, or any other Action,
shall be entered fairly on the Roll, or an *Incipitur*
thereof, before such Judgment shall be
signed by the Secondary, or any Justice of this
Court, and the Names of the Plaintiff and De-
fendant, with the County where the Action is
laid, and the Nature of the Action, with the
Attorney's Name, shall be entered in a Book
to be kept by the Secondary of the Court for
that Purpose, for which nothing shall be paid
but the ancient and accustomed Fee for entering
such Judgment. (b)

And it is further Ordered, That no Record
of *Nisi prius* shall be sealed (c) or passed at the
Nisi prius Office by the *Custos Brevium* of this
Court, or any Clerk of that Office, before the
Issue in that Cause be fairly (d) entered on Re-
cord, or an *Incipitur* thereof, and such Entry
with the Record of *Nisi prius* be first brought
to, and signed by the Secondary of this Court,
for which no Fee shall be demanded or paid, but
the usual and accustomed Fee due to the Chief
Clerk of this Court for Entry of such Issue on
Record. (e)

[m]

And

(a) Pleas to the Jurisdiction of the Court, or in Abatement, ought to be pleaded before the Rule for pleading is out, and cannot be pleaded after a common Impar lance, or unless the Declaration be delivered after Term, or so late in the Term, that the Defendant is not bound to plead to it that Term; in both which Cases the Defendant may, within the first four Days inclusive of the next Term, plead any Plea in Abatement or to the Jurisdiction of the Court, as of the preceding Term; but if such Plea be not delivered or left in the Office in Time (whether a Rule to plead be given or not) such Plea is not to be received, &c.

Sunday, or any Day on which the Court does not sit, is to be accounted as one of the four Days, unless it happens to be the last Day.

Every Plea of Tender, or where the Defendant alleges he was always Ready to do any particular Act, must be pleaded in like Manner as Pleas in Abatement. If it be a Plea of Tender, the Money must be brought into Court, and the Receipt of the proper Officer be wrote on the Plea before it is filed. See Hil. 5 Ja. I.

(b) East. 17 Ja. I. East. 1657. East. 4 Ja. II.

(c) You pay 7 s. 6 d. for the first eight Sheets, 7 s. for every eight Sheets after, and 6 d. to the Sealer.

(d) The *Nisi prius* Record is to be Ingrossed on a Press of Parchment, stamped with a double Half-Crown Stamp.

(e) Trin. 1 Ja. II. East. 1657.

And it is further Ordered, That every Attorney shall bring in all his Rolls into the Office fairly ingrossed, in a good full (a) Court Hand, by the Times limited by former (b) Rules; (that is to say) the Rolls of *Trinity*, *Michaelmas* and *Hillary* Terms, before the *Effoin-Day* of every subsequent Term, and the Rolls of *Easter* Term before the first Day of *Trinity* Term; and that no Attorney at large, or any other Person, shall take any Numbers, or file any Rolls, but the (c) Clerks of the Chief Clerk of this Court only.

J. Holt, } Lit. Powis,
J. Powell, } H. Gould.

*Die Mercurii prox'
post tres Septi-
man' Sti' Mi-
chaelis Anno 5
Anne Reginae.*

Mich. 5 Anne,
1706.

Warrants of Attorney.

II. **O**rdinatum est (in Prosecution) cujusdam Actus Parliamenti nuper editi Et provisi. ad compellend' separat' Attorn' hujus Cur' affilare Warrant' sua Attorn' Qd Attorn' pro Defend' tempore comparenc' sue pro tali Defend' dabit Attorn' pro Quer' Warrant' Attorn' pro tali Defend'. Et tempore deliberation' Copie Narration' vel Allocation' inde ex Officio ubi affilatur, solvet quatuor denar' pro dicto Warrant' Attorn'. Quod quidam Warrant' Attorn' praed' Quer' affilabit cum Officiari' ap-punctuat' pro affilatione inde eodem tempore quo affilatur vel affilare debet Warrant' Attorn' pro Querente. Et si talis Attorn' pro Defend' recusabit solvere Attorn' pro Querente dict' quatuor' denar' pro Warrant' Attorn' praed' modo Et forma supra-dict' tunc tal' Attorn'

2

II. **I**t is Ordered (in Pursuance of an Act of (d) Parliament lately made and provided to compel the several Attornies of this Court to file their Warrants of Attorney) That the Attorney for the Defendant, at the Time of his Appearance for such Defendant, shall give the Plaintiff's Attorney the Warrant of Attorney for such Defendant; and at the Time of the Delivery of the Copy of the Declaration, or taking thereof out of the Office where it is filed, shall pay four Pence for the said Warrant of Attorney, which Warrant of Attorney the said Plaintiff's Attorney shall file with the Officer appointed for filing thereof at the same Time when he files or ought to (e) file the Warrant of Attorney for the Plaintiff. And if such Attorney for the Defendant shall refuse to pay the Plaintiff's Attorney the said four Pence for the said Warrant of Attorney in Man-

*pro Querente super tal'
Recusation' signare po-
terit Judicium versus
Defend' in tali Actione
per Defalt'.*

ner and Form aforesaid, then such Attorney for the Plaintiff upon such Refusal may sign Judgment against the Defendant in such Action, by Default.

*Die Jovis prox'
post quinden' Sti'
Martini Anno
5 Anne Regi-
nae.*

Mich. 5 Anne,
1706.

Pleading.

III. **O**rdinatum est qd si aliqua persona sive personae existen' arrestat' super aliquod Breve de Latitat' sive aliquem al' Process. e Cur' hic emanant' retornabile hic in Cur' ante tres Septimanas Pasche in Termino Pasche vel Mens' Michaelis in Termino Sti' Michaelis Et Defend' comparebit Et imponet Co'e sive Speciale Bail' superinde, Et Quer' narraret in aliqua Actione quacunque Et locaret Actionem suam in London' vel Com' Midd' qd tunc fu'it Narratio deliberat' fu'it Attorn' pro Defend' vel affilat' seu reliet' in Officio ante diem Effon' Mens' Pasche in Termino Pasche Et ante diem Effon' Crastin' Animar' in Termino Sti' Michaelis, tunc Defend' in tali Actione super Regulas dat' placitabit ad exitum de eodem Termino quo Narratio deliberat' affilat' seu reliet' existit per spatium duorum dierum prox' ante diem Effon' prox' Terminu a-liter Judicium intrari poterit per Defalt' sed si Narratio non deliberat' affilat' seu reliet' fu'it

III. **I**t is Ordered That if any Person or Persons being arrested upon any Writ of *Latitat*, or any other Process issuing out of this Court returnable here in Court before three Weeks of *Easter* Term, or the Month of *Michaelmas* in the Term of *St. Michael*, and the Defendant shall appear and put in common or special Bail thereupon, and the Plaintiff shall declare in any Action whatsoever, and shall lay his Action in *London*, or in the County of *Middlesex*, that then if the Declaration shall be delivered to the Attorney for the Defendant, or filed, or left in the Office before the *Effoin* Day of the Month of *Easter* in *Easter* Term, and before the *Effoin* Day of the *Morrow* of *All Souls* in the Term of *St. Michael*; then the Defendant in such Action, upon Rules given, shall plead to Issue of the same Term in which the Declaration was delivered, filed, or left by the space of two Days next before the *Effoin*-Day of the next Term; otherwise Judgment may be entered by Default: But if the Declaration was not delivered, filed or left until after

(a) Now in a common Hand, Stat. 6 Geo. II. c. 27. Trin. 1 Ja. II.

(c) There is no Distinction now used between Clerks and Attorneys.

(b) See Mich. 9, and Trin. 10 W. III. and the Note there.

(d) Stat. 4 & 5 Ann. cap.

16. (e) Tho' the Warrant be not filed according to the Stat. it is not Error, for if the Plaintiff file the Warrant at any Time before the Defendant hath pleaded, it is sufficient. Mod. Cases in Law and Equity 77.

*fu'it usq; post præd' se-
parat' dies Effon' in
qualibet Termino Pas-
che & Termino Sti'
Michaelis tunc Defen-
dens habebit licentiam
placitandi usq; prox'
Terminum secundum an-
tiquam consuetud' hujus
Cur'.*

after the said several Effoin-
Days in each Term of Ea-
ster and Michaelmas, then
the Defendant shall have
leave to plead until the next
Term according to the an-
cient Courfe of this Court. (a)

*Captionem & Detentio-
nem aliter fiat superse-
deas pro eodem Defenda'.*

Defendant in Custody of such
Sheriff, before the End of
the second Term after such
taking and detaining, other-
wise a *Supersedeas* may be
made for such Defendant. (b)

*Die Mercurii prox'
post Octab' Sancte
Trin' Anno
sexto Anne Re-
ginae.*

Trin. 6 Anne;
1707.

Prisoners.

QUOD ubi ali-
quis Defend'
existen' prisonar' in
Custod' Mar' huj' Cur'
super medium processum
capt' & detent' fuerit
in Custod' alicujus Vic'
huj' Regni Virtute War-
rant' Justic' hujus Cur-
riae pro Evassione e Cu-
stodia Mar' præd' fact'.

Ordinat' est quod
querens in tali Actione
narrabit versus eundem
Def. in Custod' talis
Vic' ante finem secundi
Termini post hujusmodi

THAT where any De-
fendant, being a Pri-
soner in Custody of the
Marshal of this Court upon
Mesne Process, shall be ta-
ken and detained in Custody
of any Sheriff of this King-
dom, by Virtue of a Judge's
Warrant of this Court, for
an Escape made from the
Custody of the Marshal a-
foresaid.

It is Ordered, That the
Plaintiff in such Action shall
Declare against the said De-

*Die Veneris prox'
post Crastin' A-
nimar' Anno 8
Anne Reginae.*

Mich. 8 Anne,
1709.

Bail. (c)

I. **O**rdinatum est
quod ubi ali-
quis Defendens arrestat'
fuerit per Vic' London
vel Com' Midd' per
Process. & Cur' hic e-
manan' & dabit tali
Vic' Scriptum obligator'
pro Comparenc' sua ad
diem Retorn' hujusmodi
Process. talis Defend'
habeat Licenc' per qua-
tuor dies post Retorn'
ill' ad imponend' bon'
manucept' ad secl'am
Quer' in tali process.
& infra Tempus ill'
cesset omnis process. super
script' obligator' Vic'
Et in Casu Arrestatio-
nis alicujus Defend' in-
fra

I. **I**t is Ordered, That
where any Defendant
shall be arrested by the She-
riffs of London or Middlesex,
by Process issuing out of this
Court, and shall give to such
Sheriff a (d) Bail-Bond for
their Appearance on the
Day of the Return of such
Process, such Defendant
shall have Leave for (e)
four Days after that Return
to put in good Bail at the
Suit of the Plaintiff in such
Process, and within that
Time all (f) Proceedings
upon the Bail-Bond to the
Sheriff shall stay. And in
case of Arrest of any De-
fen-

(a) See East. 5 Ann. Formerly the Defendant baid in all Cases an Imparlance to the Term next after the Return of the Process, except the Proceedings were by Original, or for or against Attorneys or other Privileged Persons, or against Prisoners in Custody of the Marshal; in which Cases, the Defendant was bound to plead without any Imparlance the same Term the Declaration was delivered, (if delivered four Days before the End of the Term) and except the Proceedings were by Habeas Corpus, or the Process was returnable the first Return of Easter or Michaelmas Term, and Declaration delivered according to this Rule. But now the Practice is altered, and the Defendant must plead according to the Rule Trin. 5 & 6 Geo. II. if the Process be returnable the first or second Return of any Term.

If a Bill be filed against an Attorney and a Copy thereof delivered four Days exclusive before the End of the Term, including Sunday as one, the Defendant must plead as of that Term, the Plaintiff having entered a Rule to plead and demanded a Plea; otherwise if a Bill be not filed and a Copy delivered within that Time, the Defendant is intitled to an Imparlance.

Or if an Attorney sues out an Attachment of Privilege, and delivers his Declaration four Days before the End of the Term, the Defendant must plead as of that Term; but if he does not deliver his Declaration before the Effoin-Day of the subsequent Term, the Defendant will have an Imparlance to the next Term following.

An Attorney cannot bring an Action till a Month after a Bill delivered and subscribed with his proper Hand. Stat. 2 Geo. II. cap. 23. 12 Geo. II. cap. 13.

(b) Trin. 2 Geo. I.

(c) Former Rule, Easter, 11 W. III. reg. 2.

(d) Every Bail-Bond ought to be in double the Sum sworn to and indorsed on the Process.

(e) In B. R. the four Days and six Days are reckoned exclusive, in C. B. inclusive of the Day of the Return of the Writ. If either the fourth or sixth Day fall on a Sunday, the Defendant has the Monday following to put in Bail.

(f) The Assignment of the Bail-Bond must be stamped before the Action is brought. No special Bail is required to such Action against Bail, nor is the Sheriff after the Action brought, answerable tho' the Bail are insufficient. See Mich. 6 Geo. II.

If the same Persons who were Bail to the Sheriff become Bail to the Action, the Plaintiff is not at Liberty to except against them, after he hath taken an Assignment of the Bail-Bond. 2.

The Delivery of a Declaration before special Bail is put in, is a Waiver of the Bail, and if before Bail is justified, it is an Acceptance of them; but if delivered de bene esse, then it is only Conditionally that good Bail be put in, or the Bail already put in do justify.

*fra aliquem alium Com-
hujus Regni per Proces-
sum & Cur' hic ut præ-
fertur emanant talis
Defend' habeat Licent'
per sex dies ad impo-
nend' bon' manucap'
post Retora' talis pro-
cessus sine aliqua prose-
cutione quacumq; super
scripti obligator' Vic'
interim fund'.*

pendant in any other County of this Kingdom, by Process issuing out of this Court, as aforesaid, such Defendant shall have Leave for six Days to put in good Bail, after the Return of such Process, without any Prosecution whatsoever to be made in the mean Time on the Bail-Bond to the Sheriff.

*Die Martis prox'
post Crastinum
Animarum An-
no 8 Annæ Re-
ginæ.*

The same Term,
1709.

Bail.

II. *O*rdinatum est quod nulla Exceptio ad Speciale Ballium coram aliquo Justic' hujus Curie impositum imposterum facta fuerit post viginti dies post Notic' talis Ballii impositi secundum Consuetud' huj' Curie dat' Et quod Exceptio post tempus illud facta vacua fuerit & nullius Vigoris.

II. *I*t is Ordered, That no (a) Exception to Special Bail, put in before any Justice of this Court, shall be made for the future after twenty Days Notice given of such Bail being put in, according to the course of this Court; and that Exception after that Time made shall be void, and of no Force. (b)

RULES and ORDERS OF THE Court of King's Bench.

*Die Mercurii prox'
post tres Septi-
man' Sanctæ
Trin. Anno 2
Georgii Regis.*

Trin. 2 Geo. I.
1716.

Prisoners.

*O*rdinatum est per Cur' quod si aliquis Defendens commiss' fuerit Custod' Mar' huj' Cur' vel onerat' fuerit in Custod' ejusdem Mar' vel arrestat' vel commiss' fuerit virtute processus huj' Curie Custod' alicuj' Vic' sive al' Officiar' cujuscunque ad seclam alicuj' Quer' & sic in Custod' remanebit per duos Terminos & Quer' non narrabit versustalem Defend' infra Temp' illud quod talis Defend' post finem secundi Termini post tale Imprisonamentum exonerabitur extra Prisonam qua sic detentus erit super Affilationem communis Ballii signat' per

*I*t is Ordered by the Court, That if any Defendant shall be committed to the Custody of the Marshal of this Court, or (c) charged in Custody of the said Marshal, or Arrested, or Committed by Virtue of the Process of this Court to the Custody of any Sheriff, or other Officer whatsoever at the Suit of any Plaintiff, and shall so remain in Custody for two (d) Terms; and the Plaintiff shall not Declare against such Defendant within that Time; that then such Defendant, after the End of the second Term after such Imprisonment, shall be (e) discharged out of the Prison where he shall be so detained on filing Com-

The Court on Application will stay the Proceedings on the Bail-Bond upon putting in good Bail, paying the Costs, receiving a Declaration in the Original Action, pleading to Issue and taking short Notice of Trial, so that the Issue may be tried the same Term.

If the Plaintiff has lost a Trial, the Court will further require, that the Bail consent that Judgment be entered against them on the Bail-Bond for the Plaintiff's Security. But in Case the Plaintiff might have had Judgment against the Defendant in the Original Action, if Bail had been put in in time, the Court will not then stay the Proceedings on the Bail-Bond.

(a) Exception is made in the Bail-Book at the Judges Chambers, and Notice of such Exception ought to be given. Note; After a Declaration is delivered in the Original Action, Bail cannot be excepted against, unless the Declaration be delivered de bene esse, and so marked on the Back. See the foregoing Rule, and Easter, 5 Geo. II.

(b) Mich. 16 Car. II.

(c) Persons in Custody on any Criminal Matter cannot be charged at the Suit of a Subject in any Action without Leave of the Court. Salk. 354.

(d) The Term in which the Writ (whereon the Defendant was Arrested) is returnable to be accounted one of the two Terms, altho' the Writ be returnable on the last Day of the Term, and so likewise the Term wherein the Defendant was committed to the Custody of the Marshal, is to be accounted one, altho' not committed till the last Day of a Vacation.

(e) To discharge a Prisoner on the Plaintiff's not declaring, a Certificate must be had from the Clerk of the Declarations, that no Bill is filed in his Office against the Defendant, and a Certificate of the Causes wherewith he stands charged from the Clerk of the Papers of the King's Bench Prison, if in Custody of the Marshal, or from the Gaoler

per un' Justic' huj' Cur' absq; Notic' Quer' vel ejus Attorn' dand'.

Et si talis Quer' narrabit versus talem Defend' Prisonar' in Custod' Mar' hujus Cur' vel alicuj' Vic' vel al' Officiar' ut prefertur remanen' & non procedet ad Trialionem sive Judic' infra tres Terminos prox' post talem Narrationem deliberat' vel si aliquis Quer' obtinebit Judic' in Cur' hic in aliqua Actione versus aliquem Defend' Prisonar' & non onerabitur præd' Defend' sic in Prisona remanen' in Executione super Judic' sic obtent' infra duos Terminos prox' post tale Judic' sic habit' & obtent' tunc talis Defend' sic in prisona remanens habebit Licent' ad affiland' commune Ballium vel ad proseguend' Breve de Superfedeas & Cur' hic secundum Consuetud' huj' Curie pro Exo-

Common Bail, signed by one of the Justices of this Court, without giving Notice to the Plaintiff or his Attorney. (a)

And if such Plaintiff shall Declare against such Defendant, a Prisoner in Custody of the Marshal of this Court, or any Sheriff or other Officer as aforesaid remaining, and shall not proceed to Trial or Judgment within three (b) Terms next after such Declaration delivered, or if any Plaintiff shall obtain Judgment in the Court here in any Action against any Defendant a Prisoner, and shall not charge the said Defendant so in Prison remaining, in Execution upon the Judgment so obtained, within two Terms next after such Judgment so had and obtained; then such Defendant so in Prison remaining shall have Leave to file common Bail, or to sue out a Writ of *Superfedeas* out of the Court here, according to the course of this Court for his

neratione sua & Custod' præd' ubi sic detent' fuerit per un' Justic' huj' Cur' concedend' si Causa ei non ostensa fuerit in contrar' per Quer' vel ejus Attorn' super Notic' eis vel eorum alteri per Attorn' pro Defend' dand' & Sacrament' ejusdem Notic' fiend' si idem Quer' non comparebit coram Judice præd' ad impediendum affilationem communis Ballii præd' seu consecutionem præd' Brevis de Superfedeas.

Discharge out of Custody aforesaid where he shall be so detained, to be granted by one of the Justices of this Court, if Cause shall not be shewn to the contrary by the Plaintiff or his Attorney, upon (c) Notice to them or either of them given by the Attorney for the Defendant, and Oath of the said Notice to be made, if the said Plaintiff shall not appear before the Judge aforesaid, to hinder filing the Common Bail aforesaid, or making the aforesaid Writ of *Superfedeas*. (d)

Easter, 7 Geo. I. 1721.

Records of Nisi prius.

It is Ordered, That all Records of *Nisi prius* in London and Middlesex, be sealed on or before the respective Days appointed (by the Lord Chief Justice) in the Sittings Paper for their Trial. (e)

[n]

Die

Gaoler or Keeper of the Prison, if in Custody of a Sheriff or other Officer; which being carried to a Judge he will grant an Order for a *Superfedeas*; Notice is required to be given the Plaintiff and Affidavit made thereof, if the Plaintiff or his Attorney does not attend to oppose or consent to his Discharge.

(a) If the Defendant supercede for want of Proceedings before Judgment, yet the Plaintiff may after Judgment obtained take the Defendant in Execution; but otherwise if the Defendant supercede for want of charging in Execution.

(b) The Term in which the Declaration shall be delivered, or the Term wherein Judgment shall be obtained, to be reckoned one.

(c) In either of these Cases the Notice to be given the Plaintiff is a Judge's Summons to attend and shew Cause why the Defendant should not be discharged for the Plaintiff's not Declaring or not Proceeding.

If a Prisoner be in Custody of a Sheriff or other Officer, he must sue out a Writ of *Superfedeas*, for signing which the Bail-piece signed by one of the Judges is a Warrant to the Officer with whom you leave it, and he delivers it over to the Clerk of the Common Bails to be filed. But if the Prisoner be in the Custody of the Marshal, a Certificate from the Clerk of the Bails, that Common Bail was filed with him by order of a Judge, will be sufficient to the Marshal without a *Superfedeas*.

If a Defendant surrender himself after Judgment in Discharge of his Bail, the Plaintiff must charge him in Execution in two Terms (the Term wherein he surrenders to be accounted one) or he may be discharged on filing Common Bail, as if in Custody for want of Bail upon an Action, unless Proceedings be stayed by Writ of Error or Injunction.

To charge a Defendant in the Custody of the Marshal in Execution, draw up a Rule with the Clerk of the Rules, serve the Marshal with a Copy, and he writes at the Bottom of the Rule his Acknowledgment, then enter the *Committitur* in the Marshal's Book with Mr. Lantrow, and file it with Mr. Hawley.

If a Prisoner in the Fleet charged with a Declaration in the Common Pleas, remove himself by *Habeas Corpus* to the Custody of the Marshal, the Plaintiff must proceed to Judgment in the Common Pleas, and then may carry him back by *Ha' Cor' ad satisfaciendum* to charge him in Execution; and so likewise if a Prisoner in Custody of the Marshal be charged with a Declaration in this Court, and he removes himself to the Fleet, the Plaintiff must proceed to Judgment in this Court, and the Defendant brought back by *Ha' Cor'* to be charged in Execution; the Number of the Judgment Roll must be indorsed on the *Habeas Corpus*.

If a Writ be sued out against Husband and Wife, and the Wife only be arrested and detained in Custody, she shall not be compelled to put in Bail for her Husband, but may file common Bail for herself, and have a *Superfedeas* for her Discharge; but if the Husband only be arrested, he shall put in Bail for his Wife as well as himself.

(d) Former Rules, East. 16 Car. II. East. 5 W. & M. Trin. 9 W. III. Trin. 6 Ann. Stat. for Relief of Prisoners, 2 Geo. II. cap. 22. 3 Geo. II. cap. 27. 8 Geo. II. cap. 24. 10 Geo. II. cap. 26. 11 Geo. II. cap. 9.

(e) Trin. 1 Ja. II. Mich. 5 Ann. reg. 1.

Die Lune prox'
post Octab' Pu-
rificationis beate
Marie Anno 8
Georgii Regis.

Hil. 8 Geo. I.
1721.

Notice of Inquiry.

QUOD cum mag-
nae Dilationes
sepe contingunt Que-
rentib' in eorum scdis
in Cur' hic ratione Mo-
ration' in Lege per At-
toris pro Defend' post-
quam iidem Quer' ob-
tuler' Exit' per patriam
trians' super placita
eorundem Defend' pla-
citas & deliberaverunt
Libros Papir' cum No-
ticia triationis secundum
Conf. bus Cur' eo qd'
post Judic' per Quer'
obtent' super talem Mo-
rationem in Lege non
remanet Tempus suffi-
ciens in Termino ad dand'
Notic' Brevis de Inquir'
de Dampnis exequend'
infra Terminum quo
Judic' sic obtenti fuerit
Ideo ordinatum est in fu-
turo qd' in omni Casu ubi
Quer' concludit ad pa-
triam super placitum
Defend' & dabit Noti-
ciam Triationis Exitus
super librum papir' ut
præfertur & superinde
Defend' ad impediend'
Triationem Exitus mo-
rabit in Lege super Re-

WHereas great Delays
often happen to the
Plaintiffs in their Suits in
this Court by reason of De-
murrers in Law by the De-
fendant's Attorney, after the
said Plaintiff hath tendred
the Issue to be tried by the
Country upon the Plea of the
said Defendant pleaded, and
hath delivered Paper Books
with Notice of Trial, accord-
ing to the Course of this
Court, so that after Judg-
ment obtained by the Plain-
tiff upon such Demurrer in
Law, there is not sufficient
Time in the Term to give
Notice of executing a Writ
of Enquiry of Damages,
within that Term in which
the Judgment shall be so ob-
tained;

Therefore it is Ordered
for the future, That in eve-
ry Case where the Plaintiff
shall conclude to the Coun-
try upon the Defendant's
Plea, and shall give Notice
of Trial of the Issue upon
the Paper Book as aforesaid,
and thereupon the Defen-

plicationem vel placi-
tum Quer' & Quer'
jungeret in tali mora-
tione & superinde obti-
nebit Judic' Attorn' pro
Defend' tent' fuerit ac-
cipere Noticiam Brevis
de Inquir' de Dampnis
exequend' a tempore
Notic' triationis super
Librum Papir' dat' ut
præfertur.

dant, to hinder the Trial of
the Issue shall demur in
Law, upon the Replication
or Plea of the Plaintiff, and
the Plaintiff shall join in
such Demurrer, and there-
upon shall obtain Judgment,
the Attorney for the De-
fendant shall be obliged to
accept of Notice of execu-
ting a Writ of Inquiry of
Damages from the Time of
Notice of Trial given upon
the Paper Book, as afore-
said. (a)

Mich. 11 Geo. I. 1724.

Summons.

It is Ordered, That no Attorney or other
Person shall be summoned to attend any Ju-
stice of this Court, nor any Matters be transacted
before such Justice at his Chambers, or else-
where out of Court, during the Sitting of this
Court at Westminster; and all Orders and other
Transactions so to be made by such Justice shall
be vacated.

(a) Upon the Delivery of any Paper Book wherein an Issue is joined, and Notice of Trial given on the back of the Book, if the same be afterwards waived, and the general Issue given, the Notice which was given for the Trial of the special Issue shall serve for Notice of the general Issue.

Where the Plaintiff, upon any Pleading of the Defendant, tenders an Issue, and the Paper Book is made up and delivered with Notice of Trial, and the Defendant strikes out the Similitur, and returns the Book with a Demurrer, if Judgment be given for the Plaintiff on the Demurrer; it is Ordered by the above Rule, that the same Notice which was given for the Trial of the Issue shall serve for executing the Writ of Inquiry. But then the Plaintiff ought to give Notice of the Hour and Place of Executing the Inquiry.

The Court will allow Costs for not Executing a Writ of Inquiry according to Notice in like Manner as for not going to Trial. Mich. 4 Ann.

RULES and ORDERS OF THE Court of King's Bench.

Trin. I Geo. II. 1727.

Delivering Declarations and Pleading.

TO establish the Practice of this Court upon the late Act of (a) Parliament for preventing Frivolous and Vexatious Arrests,

It is Ordered, That from and after the last Day of this present Term, in all Causes where a Copy of the (b) Process of this Court is served upon any Defendant or Defendants, and an Appearance is entered, or common Bail filed for such Defendant or Defendants, by the Plaintiff's Attorney, pursuant to the said Act, the Plaintiff's Attorney in such Case shall leave a Copy of the Declaration in the Office with the proper Officer appointed for that purpose, and likewise give Notice thereof to the Defendant or Defendants, by delivering an *English* (c) Notice, written in Secretary Hand, to such Defendant or Defendants, or by leaving the same at the last or most usual Place of Abode of such

Defendant or Defendants, in which Notice shall be likewise expressed the Nature of the Action, and at whose Suit prosecuted, and the Time limited by the Rules of this Court, for such Defendant or Defendants to plead to such Action; and that in case such Defendant or Defendants do not plead to such Declaration by such limited Time, so to be expressed in such Notice, Judgment will be enter'd against such Defendant or Defendants by Default. And from the Time of giving such Notice as aforesaid, such Declaration shall be deemed well delivered to such Defendant or Defendants, and not otherwise.

And in case such Defendant or Defendants (after such Notice given) do not plead by the Time the Rules for pleading are out, the Plaintiff in such Case may sign his Judgment without any other or further calling for a Plea, and thereon give Notice of executing his Writ of Inquiry, either by delivering a Notice in Writing to such Defendant or Defendants; or by leaving the same at the last or most usual Place of Abode of such Defendant or Defendants; which shall be a sufficient Notice to such Defendant or Defendants of the Time of executing such Writ of Inquiry.

And whereas by the Rules of this Court, Defendants have usually been allowed eight Days Time to plead;

It is further Ordered, That from and after next Hillary Term, (d) four Days only shall be allowed such Defendants from the Time of giving any Rules to plead.

R. Raymond, J. Reynolds, E. Probyn.

Die

(a) Stat. 12 Geo. I. cap. 29.

(b) The Day and Year of signing Process is to be set down thereon, Stat. 5 & 6 W. & M. cap. 21. — 9 & 10 W. III. cap. 25. And the Name of the Attorney wrote on every Writ or Process and Writ of Execution, and the Warrants thereon, Stat. 2 Geo. II. cap. 23. but by Stat. 12 Geo. II. cap. 13. the not subscribing the Attorney's Name on the Warrant shall not vitiate, provided the Writ, &c. be regularly subscribed, and Sheriffs are thereby obliged to subscribe the Attorney's Name on Warrants, on Penalty of 5 l.

(c) See Trin. 5 & 6 Geo. II. Mich. 10 Geo. II. reg. 2.

(d) On all special Rules given by the Secondary, as to Reply, Rejoin, Surrejoin, Rebut, plead in Bar, join in Demurrer, enter the Issue or Demurrer on the Part of the Defendant, the Party who is to do the Act is to be served with a Copy of the Rule, and hath four Days Time exclusive after the Service of the Rule to Reply, Rejoin, &c. and if Judgment be signed, or other Proceedings had within that Time, the same will be set aside.

Sunday or any Holiday on which the Court does not sit, or the Office is not open, if it be not the last of those four Days, is to be accounted a Day within those Rules; but see Ca. in Law and Eq. 21.

If a Paper Book be made up and delivered in Term-time, or within four Days exclusive after Term, with a Rule thereon given by the Clerk of the Papers for bringing the same Book to be enrolled, and the Defendant's Attorney doth not, within four Days after the Delivery thereof, bring back the Book and join with the Plaintiff in the special Issue or Demurrer made up, or waive his special Plea, and give the general Issue or Demurrer to any special Issue tendered, and pay for entering the Pleadings on his Part, Judgment may be signed and entered as if no Plea had been pleaded.

But where a Plea is not put in in Time, so that a Paper Book may be made and delivered in Term or within four Days after, yet if it be made up and delivered within eight Days after the Term, the Defendant's Attorney shall be obliged to take it and return it again in four Days after the Delivery, or Judgment may be signed.

If a Plea be pleaded in Term or in Time after the Term, and the Paper Book is not made up and delivered within eight Days exclusive after Term, if it be an Issue to be tried in London or Middlesex, or a Demurrer, the other Party is not bound to deliver back the Book till within the first four Days of the next Term; but if it be an Issue to be tried at the Assizes, the Defendant's Attorney shall deliver back the Book within four Days after the Delivery thereof, and pay for entering his Part, and join in the special Issue, or give the general Issue and take Notice of Trial, or else the Plaintiff's Attorney may sign Judgment by Default, as if the Defendant had not pleaded. But in all Cases, if the Plaintiff's Attorney accept the Book after the limited Time, he cannot sign Judgment.

If

Die Mercur' prox'
post tres Septi-
manas Sancte
Trin' Anno se-
cundo Georgii II.
Regis.

Trin. 2 Geo. II.
1728.

Delivering Declarations.

Regula Generalis.

Ordinatum quod in omni Causa qua speciale vel commune Ballium affilabitur & Notie inde dabitur Attorn' pro Quer' Copia Narrationis deliberata fuerit Attorn' pro Defend' qui solvet proinde secundum usualet Rateam sed si Attorn' pro Defend' vel ejus Clericus in Absentia dicti Attorn' recusabit solve- re pro tali Copia vel si acciderit locum habita- tionis dicti Attorn' ig- not' fore Attorn' pro Quer' tunc licet re- linquere talem Copiam cum Officiis' hujus Curie pro Affilatione Nar- ration' appunctuato & Notie inde indilate de- tur ipsi Defend' vel ejus Attorn' & talis Narr' habebitur rite deliberat' a tempore talis Notitie tantum.

A General Rule.

It is Ordered, That in every Cause in which special or common Bail shall be filed, and Notice there- of given to the Attorney for the Plaintiff, a Copy of the Declaration shall be deliver- ed to the Defendant's Attor- ney who shall pay for the same according to the usual Rate; but if the Attorney for the Defendant, or his Clerk in his Absence, re- fuses to pay for such Copy, or if it shall happen, that the Abode of the Defen- dant's Attorney be unknown to the Plaintiff's Attorney, then it shall be lawful to leave such Copy with the Officer of this Court ap- pointed for affiling Decla- rations; and (a) Notice there- of shall without delay be given to such Defendant, or his Attorney; and such De- claration shall be held well delivered from the Time of such Notice only.

Die Mercur' prox'
post Octabas Pu-
rificationis bea-
te Mariæ Anno
2 Georgii secun-
di Regis.

Hil. 2 Geo. II.
1728.

Regula Generalis.

Pleading.

I. **O**rdinatum est quod ubi aliquis Defendens arrestat' fue- rit virtute alicujus Pro- cessus e Cur' hic eman- nan' in quo Causa Ac- tionis specialiter speci- ficata & expressa fue- rit vel Copia talis Pro- cessus deliberata fuerit alicui Defend' juxta Formam Statuti in bu- jusmodi Casu nuper edi- ti & provis' & Quer' superinde narrabit De- fend' in tali Casu non habebit Licenciam in- terloquendi sine Licenc' Curie in ea parte pri- us concedend' sed placitabit adinde infra Tem- pus per Consuetudinem Curie allocat' Defend' per breve original' pro- secut' & in Defectu in- de Judicium intretur versus talem Defend' per Defaltam.

I. **I**t is Ordered, That where any Defendant shall be arrested by Virtue of any Process issuing out of this Court, in which the Cause of Action shall be spe- cially specified and expres- sed; or a Copy of such Process shall be delivered to any Defendant, according to the Form of the Statute in such Case lately made and provided; and the Plaintiff thereupon shall declare; the Defendant in such Case shall not have Liberty of Impar- ling, without Leave of the Court, in that Behalf first to be granted; but shall plead thereunto, within the Time allowed by the course of the Court to Defendants sued by Original Writ; and for want thereof, Judgment may be entered against such Defendant by Default. (b)

The same Term, 1728.

Notice fixed up in the King's Bench Office.

Acetiams.

II. **A**LL Clerks and Attornies, that intend to proceed according to the above Rule, are to take Notice, that in suing out such Writs they do not insert in the Acetiam the whole De- claration at length, but only describe the Cause of Action shortly according to the Specimen here- under set forth, varying the same as the Nature of the Action shall require.

Goods

If the Paper Book be of an Issue in Fact, the four Days for keeping the Books are accounted exclusive of a De- murrer or Issue in Law, the four Days are inclusive.

If the Issue joined be not an Issue in Fact, but an Issue in Law, as a Demurrer, then as soon as the Paper Book is return- ed, enter the Proceedings on Record, which being brought into Court, you move by Counsel for a Concilium, and then enter the Cause with the Clerk of the Papers, and deliver the Paper Book to the Judges as directed by the Rule, East. 2 Ja. II.

In all special Pleadings where the Plaintiff takes Issue upon the Defendant's Pleading, or traverses the same, or De- murreth, so as the Defendant is not let in to allege any new Matter, there the Plaintiff may make up the Paper Book with- out giving a Rule with the Secondary to rejoin. See Trin. 5 & 6 Geo. II. Mich. 10 Geo. II.

(a) Trin. 1 Geo. II. Trin. 6 Geo. II.

(b) This Rule is now enlarged to Process in common Form; see Trin. 5 & 6 Geo. II. Mich. 10 Geo. II. and the Stat. 5 Geo. II. cap. 27. by which it is Enacted that no special Writ nor Process specially expressing the Cause of Action shall issue, unless the Cause of Action amount to 10 l.

Goods fold.

Actiam Bill ip'ius
Quer' w' prefat' D.
pro L. l. pro diverfis
Bon' Mercimon' &
Merchandiz' eidem D.
per prefat' Q. vendit
& deliberat' fecundum
Coni', &c.

— Of a Plea of Treſpaſs;
And alſo to a Bill of the ſaid
Q. againſt the aforeſaid D.
for fifty Pounds, for divers
Goods, Wares and Merchan-
dizes fold and delivered to the
ſaid D. by the aforeſaid Q.
according to the Cuſtom,
&c.

And Money laid out.

Tam pro diverſi Bon'
Mercimon' & Mer-
chandiz' vendit' & de-
liberat' quam pro di-
verſi Denar' ſum' per
eund' Q. pro eodem D.
& ad uſu' ip'ius dero-
gat' & extrapoſit'.

— for 30l. as well for
divers Goods, Wares and
Merchandizes, fold and de-
livered, as for divers Sums
of Money to the ſaid Q. for
the ſaid D. and for his Uſe
and at his Requeſt, laid out
and expended.

Money lent and received.

Tam pro diverſi De-
nar' ſum' eidem D. per
prefat' Q. mutuo dat'
& accommodat' quam
pro diverſi Denar' ſum'
per eundem D. pro eo-
dem Q. & ad uſu' ip'ius
Q. bi' & recept'.

— as well for divers
Sums of Money to the ſaid
D. by the aforeſaid Q. lent
and accommodated, as for
divers Sums of Money, by
the ſaid D. for the ſaid Q.
and to the Uſe of the ſaid Q.
had and received.

Debt.

De p'ito quod red-
dat ei C. l. quas ei de-
bet & injuſte detinet.

— of a Plea that he
render to him C. l. which he
him he owes, and from him
unjuſtly detains.

Covenant.

De p'ito quod teneat
a Convencon' inter
p'fat' Q. & predict' D.
ſact' juxta forma' &
effect' cuſuſam' Inden-
tur' inter eos conſect'.

— of a Plea that he
keep to him the Covenant
between the aforementioned
Q. and the aforeſaid D.
made according to the Form
and Effect of a certain In-
dentre between them made
and executed.

Affault.

De eo quod predict'
D. Vi & Armis in
ip'm Q. inſult' fec' &
ip'm verberavit vul-
neravit & Maletracta-
vit ad dampnum ip'ius
Q. Xl.

— for that, that the
ſaid D. with Force and Arms
upon the ſaid Q. made an
Affault, and him beat,
wounded and ill treated,
to the Damage of the ſaid
Q. 10l.

(a) Altho' a Judgment be ſtrictly regular, yet if the Plaintiff hath not loſt a Trial, the Court will in many Caſes (upon Payment of Coſts, Pleading to Iſſue and Accepting Notice of Trial within the Term,) ſet aſide the Judgment, that the Merits may be tried.

(b) If there be any Irregularity in the Proceſs or Proceedings before or after Judgment, it becometh the Defendant's Attorney to apply to the Court as ſoon as the Irregularity happens, for in many Inſtances where he hath lain by, and let the Plaintiff proceed and be at great Expence, the Court hath reſuſed to aſſiſt the Defendant.

(c) An Incipitur muſt be entered on the Roll before Judgment is ſigned. Mich. 5 Ann. ſee Trin. 5 & 6 Geo. II.

(a) If an Action by Original be ſued out in one County, and the Declaration laid in another, tho' it be good againſt the Defendant, yet the Bail are diſcharged, and not liab'le to a Scire Facias. 3 Lev. 235, 245. and ſee Mich. 8 Ann. and the Note there. Eaſter, 5 Geo. II.

Upon a Note.

— Promiſſi ſolvere — be promiſed to pay
prefat' Q. vel ordin' to the ſaid Q. or Order the
ſum' C. l. ſuper demand. Sum of 100l. upon De-
mand.

The ſame Term, 1728.

Notice fixed up in the King's Bench Office.

Signing Judgment.

III. PRACTICERS are to take Notice, That for the future no Diſtinction, as to the Time of ſigning Judgments, will be made betwixt Town and Country Cauſes; but that in all Caſes, the Plaintiff is at Liberty to ſign (a) his Judgment the Day after the Rules for pleading are out; Declaration having been (b) regularly delivered and filed, and Defendant, or his Agent, being called upon for a Plea, according to the Rules and Courſe of the Court. (c)

Die Lune prox'
poſt Craſt' Aſcen'
Dom' Anno 2
Georgii ſecundi
Regis.

Eaſter, 2 Geo. II.
1729.

Bail.

Ordinatum eſt qd'
in omnibus Cau-
ſis per breve Original'
proſecut' ubi Speciale
Ballium imponatur ſi
Quer' calumpniari vel-
let tale Ballium Ca-
lumpniatio inde intrabi-
tur in libro Filizar'
& Notie inde detur
indilate Attorn' pro
Defend' prout requiri-
tur in Cauſis per Bil-
lam prolat'.

IT is Ordered, That in all Cauſes proſecuted by Original Writ, where Special Bail may be put in, if the Plaintiff will except againſt ſuch Bail, the Exception thereto ſhall be entered in the Filazer's Book, and Notice thereof without Delay given to the Defendant's Attorney, as is required in Cauſes brought by Bill. (a)

[o]

Die

Die Veneris prox
post quinden
Sri Martini An
no tertio Georgii
secundi Regis.

Mich. 3 Geo. II.
1729.

Marshal and Prisoners.

Regula Generalis.

Ordinatum est per
Curiam quod in
futuro separat Ordines
sive Regulae his inferi-
us scripti & stabiliti
secundum directionem cu-
jusdam Actus Parlia-
menti in Anno Regni
Domini Georgii secundi
nunc Regis Magnae
Britan, &c. secundo
facti & editi intitulae,
An Act for the Relief
of Debtors with re-
spect to the Imprison-
ment of their Persons,
bene stricte & fideliter
observari & conservari
fuerint tam per Mar-
shalem hujus Curiae &
omnes Officiares & ser-
vos suos quam per omnes
Prisonarios qui modo sunt
vel in futuro de tempore
in tempus fuerint com-
missi Custodiam praefatam
Mar.

Et ulterius Ordinatum
est quod haec Regula cum
separat Ordinibus sive
Regulis praedictis hic in-
ferius scriptis affixa erit
in maxime publico loco
infra Prisonam hujus
Curiae communiter vo-
cata The King's Bench
Prison pro usu beneficio
& inspectione Prisonario
infra Prisonam praedictam.

Per Curiam.

By the Court.

RULES and ORDERS for the better
Government of the King's Bench Prison,
made and signed the 25th of Nov. 1729.

Rules relating to the Marshal.

1. That the Marshal of the Marshalsea of this Court do cause a Pair of Stocks to be kept up in the Prison (as has been antiently practised, for the Punishment of such Prisoners as shall blaspheme the Name of God, be guilty of Swearing, or behave themselves in a disorderly Manner.

2. That the said Marshal be and is hereby strictly enjoined not to make use of any illegal Means of Confinement of any Prisoner in his Custody; upon any Pretence whatsoever; not to confine any Prisoner in the Hole or Room commonly called the Strong Room, or any other unusual Place of Restraint; nor make use of any other extraordinary Means or Methods, for the Confinement of any Prisoner, unless such Prisoner shall have been found actually attempting or endeavouring to break the Prison, with an Intent to escape out of the Custody of the said Marshal. And every Prisoner so confined shall have Liberty to appeal to this Court in Term-Time, or to the Lord Chief Justice, or to any other Judge of the said Court, in Time of Vacation, for Redress.

3. That the said Marshal do not presume to sue or procure to be sued out, any Writ of Habeas Corpus, to remove any Prisoner from the Prison of the King's Bench to the Prison of the Fleet.

4. That the said Marshal do not presume to turn any Prisoner back from the Common Side to the Master's Side, without reasonable Cause, giving such Prisoner three Days Notice of such his Intention to remove him, during which Time the said Prisoner shall have Liberty to appeal to any Judge of this Court, against such intended Removal, in order to prevent the same; pending which Appeal, the said Prisoner shall be allowed his daily Subsistence as before; and in the mean Time, his Share of all Dividends, and other Advantages shall be reserved till such Appeal shall be determined.

5. That in case any Prisoner die within the said Prison, that the said Marshal shall forthwith give Notice to the Coroner, in order that he may inquire, according to Law, how such Prisoner came by his Death.

6. That the said Marshal do take effectual Care that no Garnish, or other Exaction be extorted from any Prisoner or Prisoners under his Custody; and do also take proper Care that no Prisoner or Prisoners be deprived of his or their Share, Dues and Dividends, on any Pretence whatsoever.

7. That the said Marshal do take effectual Care that all and every Prisoner and Prisoners detained in the King's Bench Prison be permitted and suffered, at his, her and their Will and Pleasure, to send for and have any Beer, Ale, Victuals, or other necessary Food, from what Place they please; and also to have and use such Bedding, Linen, and other Things as he, she, or they shall think fit, without purloining or detaining the same, or any Part thereof, or enforcing or requiring him, her, or them to pay for the having or using thereof, or putting any manner of Restraint or Difficulty upon him, her, or them in using thereof, or relating thereto, pursuant to the several Statutes in that Case made and provided.

8. That

8. That the said Marshal do cause a Table of Fees, as the same shall be settled and confirmed, in pursuance of an Act of Parliament made in the Second Year of his present Majesty's Reign, intituled, *An Act for Relief of Debtors with respect to the Imprisonment of their Persons*: And also a Table of these Rules, together with a List or Table of all Gifts, Legacies and Bequests, for the Benefit of the Prisoners in the said Prison, fairly written in a plain and legible Hand, to be hung up in some open and publick Room or Place in the said Prison, there to remain and be resorted to by every Prisoner, as Occasion shall require, without Fee or Reward, pursuant to the Directions of the said Act.

9. That the said Marshal do use his utmost Endeavour, by all fair and legal Methods, to prevent Escapes; and that he, and all Officers under him, do treat the several Prisoners under his Care with the utmost Tenderness and Humanity, as far as can be consistent with the safe Custody of such Prisoners. And that neither the said Marshal, nor any Officer or Servant employed by him, do demand, take or receive, directly or indirectly, of any Prisoner or Prisoners for Debt, any other or greater Fee or Fees whatsoever for his, her, or their Commitment, Chamber-Rent, Release or Discharge, than what shall be mentioned and allowed in such List or (a) Table of Fees, so to be hung up as aforesaid.

Rules relating to the Officers and Servants of the Marshal.

10. That the Turnkeys of the said Prison do diligently attend at the Gate or Door of the said Prison, as the Duty of their Office requires, and do admit all such Persons to have Access to any of the Prisoners as by Law are intitled thereto.

11. That no Cellar man, Turnkey or other Officer or Servant of the Marshal whatsoever, shall have or pretend to have any Share or Part in the Charities belonging to the Prisoners, or bear any Office in the said Prison, which may intitle him to any Power in the Disposition or Receipt of the said Charities.

Rules relating to Prisoners in General.

12. That the Chapel be continued in the Prison aforesaid, and kept in good repair; and that the Chaplain do constantly attend and perform Divine Service, and administer the Sacraments therein at the usual and proper Times, according to the Rites and Ceremonies of the Church of England.

13. That no Prisoner wrong or abuse another, upon Pain of being punished, by setting him in the Stocks for such Time, as the Marshal of this Court, with the Consent of the Steward and Assistants, or any two of them, shall think proper.

14. That the Room, commonly called the Dining-Room, be reserved and kept in good Repair, for the Use and Benefit of the Prisoners, for the Exercise of Devotion, or for Conversation. And that a Fire be kept therein as often

as the Rigour of the Season shall require. And that the two Rooms under the Dining-Room be reserved for the Use of such Prisoners, as shall be afflicted with any Disease or other Infirmary that may require such an Accommodation.

Rules relating to Prisoners on the Common Side.

15. That every Prisoner, who shall make Oath before one of the Judges of this Court, or a Commissioner empowered by this Court, or one of the Justices of the Peace for the County of Surry, That he or she cannot command five Pounds, and cannot subsist without the Assistance of the Charities belonging to the common Side, shall immediately be admitted to the said common Side, and be capable of being elected into all Offices, and intitled to all Shares, Dividends, and Profits belonging to the same.

16. That no Person committed for any criminal Matter shall have any Vote or Suffrage in the electing a Steward, or other Officer of the common Side, nor shall receive any Share of the Charities belonging to the said Prison, other than his Share of such Profits and Advantages as shall arise from the Baskets.

17. That every Prisoner shall be admitted to lodge in a Cabin within the respective Ward to which he or she shall belong, without Fee or Reward.

18. That every Prisoner shall be capable of being chosen in his Turn an Assistant, and be intitled to such Allowances, and other Advantages, which, by the Usage of the said Prison, such Assistants have heretofore usually received and enjoyed.

Rules relating to the Revenue.

19. That the Seal belonging to the common Side of the said Prison be kept by the Master of the King's Bench Office, (as of late it hath been:) And that the said Seal be not affixed to any Receipt, or other Instrument, till the same be approved and signed by the Marshal, with the Consent of the Prisoners of the said common Side, signified under the Hand of their Steward and Assistants.

20. That if any Prisoner on the common Side of the said Prison be charged with one Action only, and such Action be supersedable, that the same be superseded with the Money belonging to the Prisoners of the said common Side, by their Consent, signified under the Hands of their Steward and Assistants, and signed by the Marshal; but in case any such Prisoner be charged with more than one Action, such Actions shall not be superseded with the Money belonging to the said Prisoners, unless an Order for that Purpose be obtained upon Application to this Court in Term-Time, or to the Lord Chief Justice, or one other of the Judges of this Court in Vacation. And that no Clerk to any of the Judges of this Court shall demand or take any Fee or Reward, on account of superseding any such Action or Actions with the said Prisoners Money.

(a) See the Table of Fees 17 Dec. 1730, 4 Geo. II.

ney, or for any Matter or Thing relating thereunto.

21. That particular Care be taken of all Prisoners of the common Side, who at any Time shall happen to be sick; and that all proper Necessaries shall be provided for them, by the Steward and Assistants; and that they be reimbursed out of the first County-Money.

22. That whatsoever Debts are reasonably contracted by the Steward and Assistants, with the Concurrence of the Marshal, and Master of the King's Bench Office, for the necessary Support of the poor Prisoners; the same shall be entered by the Steward and Assistants for the Time being, in their House-Books, and be paid out of the next Dividend.

23. That no Money shall be allowed to the Steward and Assistants, on Pretence of their sitting on House Business, or adjusting Differences between Prisoner and Prisoner.

24. That any Prisoner that comes into the said Prison, after the first Day of *Easter Term*, shall have but one Quarter of *Midsummer* Dividend.

25. That all the Money brought to the Prison by the Basketmen, and their Boxes, as also such Money as is brought for the Prisoners Use and Relief by the Boxes, which come in at *Christmas*, *Easter* and *Whitsuntide*, be immediately divided to each Prisoner, in due Shares and Proportions, making the Basketmen such reasonable Satisfaction for their Trouble, as hath been heretofore usually allowed.

26. That in case the said Marshal, in Aid of the said Steward and Assistants, shall advance any Money for superseding any Action or Actions against any Prisoner or Prisoners, as is herein before directed, the said Marshal shall stand in the Place of the said Steward and Assistants, and be accordingly reimbursed out of the next County Money.

Rules relating to the Officers on the Common Side.

27. That the Prisoners of the common Side have full Power to make a free and open Election of a Steward every Year; and that no Prisoner who hath the Liberty of the Rules, or Liberty to go out of the Walls of the said Prison, shall have any Vote in the Election of such Steward, or of any other Officer of the common Side of the said Prison. And that such Steward so elected, shall continue in the said Office for the Space of one Year, unless removed upon Application made to the said Court in Term-Time, or in Time of Vacation to one of the Judges thereof.

28. That the Steward of the common Side of the King's Bench Prison do keep a Book or Register, wherein shall be entered a Copy of the Table of Fees herein before directed to be hung up in the said Prison, together with a Copy of these Rules and Orders: And also a List of the several Charities belonging to the said Prison, for the Use of the said Prisoners. And that every Prisoner have Liberty at all conveni-

ent Times to inspect the said Book, and also the Steward's Accounts.

29. That if any Prisoner be wronged or abused by the Steward and Assistants, or any of them, of his or her Rights and Dues, that he or she complaining to the Court in Term-Time, or in Time of Vacation to the Lord Chief Justice, or to any of the Judges of the Court, or to the Marshal of the said Court, shall (provided they prove the Cause of their Complaints to be true) have a reasonable Allowance made them for their Costs and Charges upon the said Complaints, to be paid out of the next Dividends belonging to the Steward and Assistants, or such of them who shall appear to have wronged such Person complaining; or if the Complaint prove groundless, that the Person complaining do in like Manner make Satisfaction for such groundless Complaint, out of his Share of the next Dividend.

30. That if any of the Assistants, or the Steward, shall mispend or waste, or by any Ways or Means lavishly consume the House-Money, that the next Assistants, or any succeeding them, may call the former to Account for the same; and upon plain Proof of the aforesaid Mispend Money, cause all the Dividend or Dividends, as well at the Grate as otherwise, to be taken, stopt, and kept for Reparation of the Injury done to the Prisoners in general, and to be put into the House-Box until equally divided to each Prisoner in their due Shares and Proportions.

31. That the Steward and Assistants do cause these Orders to be read every third *Monday* at the first Basker, being the usual Day for choosing the Officers and settling the House-Accounts.

32. That the Marshal of this Court, and all his Officers and Servants, and all Prisoners within the said Prison, do strictly and punctually observe and keep the several Rules, Orders and Directions herein before-mentioned, under Pain of incurring the utmost Punishment that by Law can be justly inflicted upon them respectively.

33. Lastly, It is hereby strictly ordered and enjoined, that no Clerk, Officer, or Servant whatsoever, belonging to any Judge of this Court, shall directly or indirectly demand, receive, or take any Gratuity, Fee or Reward whatsoever, for or by Reason of any Petition, Complaint, or Application that shall be made to any Judge of this Court, by any Prisoner or Prisoners of the said Prison, pursuant to or founded upon any of the Rules and Orders herein before-mentioned.

R. Raymond,
Ja. Reynolds,
E. Probyn.

Dec. 17, 1730. 4 Geo. II.

Pen of the King's Bench Prison.

Surry, ff. **A** TABLE of FEES to be taken by the Marshal of the King's Bench Prison in the County of *Surry*, for any Prisoner or Prisoners Commitment, or coming into Gaol, or Chamber Rent there, or Discharge from thence in any Civil Action, SETTLED and ESTABLISHED the 17th. Day of *December* in the fourth Year of the Reign of his Majesty King *George* the Second, *Anno Dom.* 1730. Pursuant to a late Act for the Relief of Debtors, with respect to the Imprisonment of their Persons, viz.

I. To the Marshal for every Prisoner committed on any Civil Action, 4 s. 8 d.

II. To the Turnkey on the Master's Side, 1 s. 6 d.

III. To the Marshal on the Discharge of every such Prisoner, 7 s. 4 d.

IV. To the Deputy Marshal upon the Discharge of one or more Actions, Executions or other Charge and no further Fee, tho' there be never so many Actions, 4 s.

V. To the Clerk of the Papers for the first Action upon the Discharge, 3 s.

VI. And to the Clerk of the Papers for every Action, Execution or other Charge to be paid on the Discharge, 4 d.

VII. To the Deputy Marshal upon the Commitment of a Prisoner in Court or at a Judge's Chamber in any Civil Action, if carried to the King's Bench Prison, 1 s.

VIII. To the Clerk of the Papers for the same, 1 s.

IX. To the said Deputy Marshal for a Surrender in Discharge of Bail, be there never so many Actions, 1 s.

X. To the Clerk of the Papers for each Action upon such Surrender, 6 d.

XI. To each of the four Tipstiffs 2 s. 6 d. for each Prisoner Committed by the Court and carried to the King's Bench Prison, in the whole, 10 s.

XII. To the Tipstaff that carries any Prisoner committed at a Judge's Chamber to the said Prison, 6 s.

XIII. To the Marshal for the Use of Chamber, Bed, Bedding and Sheets for each Prisoner, if provided by the Gaoler at the Prisoner's Request, for the first Night in the Common Side of the said Prison, 6 d.

XIV. For the like Use every Night the Prisoner remains in Custody after the first, 1 d.

XV. And if Two lie in a Bed, One Penny each, 2 d.

XVI. For the like Use, of every Prisoner that goes on the Master's Side, the first Night, 6 d.

XVII. For the like, every Night after the first, 3 d.

XVIII. And if Two lie in a Bed, Two Pence each, 4 d.

No other Fee for the Use of Chamber, Bed, Bedding or Sheets, or upon the Commitment or Discharge of any Prisoner on any Civil Action.

*Ar. Onslow,
Edw. Barker,
N. Hardinge.*

*R. Raymond,
R. Eyre.*

Easter, 5 Geo. II. 1732.

Bail.

IT is Ordered, That in every Action in this Court, where special Bail is put in, and an (a) Exception entered against the said Bail, and Notice of such Exception is given in Writing to the Defendant's Attorney, the Defendant shall procure his said Bail to justify if the Notice be given in Term-Time, (b) in four Days after such Notice, or shall add other Bail, who shall justify within the said four Days; but if such (c) Exception be entered in Vacation Time, and Notice thereof be given in like Manner, the Bail put in, or other additional Bail, shall (d) justify upon the first Day of the subsequent Term.

By the Court.

[p]

The

(a) Bail cannot be excepted against after the Plaintiff has Declared, unless the Declaration was delivered de bene esse. The Delivery of a Declaration before Bail is put in is a Waiver of Bail.

If the same Persons who were Bail to the Sheriff become Bail to the Action, the Plaintiff is not at Liberty to except against them after he hath taken an Assignment of the Bail-Bond.

(b) The four Days are reckoned exclusive.

(c) In what Time Exception must be entered. See Mich. 8 Ann. reg. 2. and the Note. East. 2 Geo. II. Mich. 16 Car. II. — 8 W. & M. 1696.

(d) If the Defendant does not attend in Court, the Bail must swear they are worth double the Sum indorsed on the Writ. Bail cannot be justified before a Judge at his Chambers, unless by Consent, but must be justified in Court upon Notice given thereof, and Affidavit of such Notice.

But Bail taken before a Commissioner may be justified without their Personal Attendance in Court, by Affidavit of their Ability and their being House-keepers. See — 8 W. III. 1696. reg. 3.

If

If a Defendant be Arrested by Process directed to the Sheriff of one County and Bail be put in thereon, and afterwards the Plaintiff lays his Action in another County, the Bail are not discharged, if the Action be by Bill; tho' it be otherwise, if by Original. See East. 2 Geo. II.

If an Action wherein special Bail is required, be brought against Husband and Wife, and the Husband only is arrested, he shall put in special Bail for his Wife as well as himself.

Every Bail taken on or before the Continuance Day is a Bail, and to be filed of the preceding Term, and every Bail taken after the Continuance Day is a Bail, and to be filed of the subsequent Term; but where new Bail is added to other Bail, taken on or before the Continuance Day, in such Case the new Bail shall be taken and filed as of that Term in which the first Bail was put in. See East. 11 W. III. reg. 2.

In an Action of Covenant, the Defendant is not bound to put in special Bail, unless the Plaintiff has obtained a Rule of Court, or an Order of a Judge for that Purpose, or unless the Covenant be for Payment of Money. See Mich. 1654. sec. 9.

In an Action brought upon a Judgment, if the Debt or Damages recovered without the Costs amount to 10l. or upwards, the Defendant may be compelled to put in special Bail, otherwise he need not put in Bail.

One that is Bail cannot be a Witness for the Defendant upon a Trial, but the Court on Motion will discharge such Bail, on putting in good Bail in his Stead.

The same Term, 1732.

Bail.

II. **I**T is Ordered, That where the Plaintiff declares for, or recovers a greater Sum than is expressed in the Process on which he declares, the Bail shall not be discharged, but be liable for so much as is sworn to and indorsed on the said Process, or for any lesser Sum, which the Plaintiff in such Action shall recover; any Rule of this Court to the contrary notwithstanding. (a)

By the Court.

(a) Formerly if the Plaintiff declared for more than in the Process, the Bail were discharged. Trin. 22 Car. II. But by this Rule, no Person being Bail in Court or before a Judge shall, upon a Recovery against the Defendant, be answerable for any greater Sum or Sums than are sworn to, or indorsed on the Writ or Process, on which the Defendant was Arrested (altho' one Part of the Condition of the Recognizance is to pay the whole Condemnation Money, if the Defendant does not) and if a greater Sum be recovered, he shall not be discharged, but shall be liable for such Sum or Sums as shall be sworn Due or Indorsed, or any lesser Sum that shall be recovered against the Defendant in such Action wherein he became Bail, together with Costs of Suit.

(b) See Trin. 8 W. III.

(c) No Scire facias lies against the Bail, (except in Error) until a Non est inventus be returned upon a Capias ad satisfaciendum against the Principal, and the Writ be filed; for the Bail are not bound to render the Principal till they know what Execution the Plaintiff will chuse, for he might have sued out a Fi fa' or Elegit. Lut. 1273.

There ought to be eight Days between the Teste and Return of the Ca' Sa' against the Principal, and in Order to charge the Bail it must lie four Days exclusive in the Sheriff's Office.

If the Action be brought by Original, the want of fifteen Days between the Teste and Return of a Ca' Sa' against the Principal in Order to charge the Bail, is not helped, by the Stat. 13 Car. II. cap. 2. sess. 2.

If the Defendant dies after a Ca' Sa' sued out, and before the Return of it, the Bail are discharged, but must plead it, 1 Jones 136. and where the Principal has died after a Ca' Sa' returned, and before it was filed, the Court on Motion have stayed, the filing of it, in Favour of the Bail.

Upon a Non est inventus returned upon the Ca' Sa', the Recognizance in Strangers is forfeited; yet if the Defendant render himself, or be surrendered by his Bail, at any Time before the Return of the second Scire facias, or of the first where a Scire faci is returned, or on the very Day of the Return sedente Curia, the Court ex Gratia will stay the Proceedings.

If there be no Ca' Sa' sued out, returned and filed, the Bail may plead it, and be discharged; but the Court will not quash the Scire facias on Motion.

If Judgment be given with Stay of Execution till a future Day, the Plaintiff may sue out a Ca' Sa' before the Day, in Order to make out a Testatum Ca' Sa' against the Defendant, but not to warrant a Scire facias against the Bail.

Easter, 5 Geo. II. 1732.

Scire facias. (b)

III. **I**T is Ordered that from and after the last Day of this Term, every Writ of Scire facias, of which Notice shall be given to the Defendant or Defendants Named in such Writ, shall be delivered to, or left in the Office of the Sheriff to whom directed, four Days before the Return of such Writ, exclusive of the Day on which such Writ is returnable.

And that every first Writ of Scire facias, on which a Nihil shall be returned, shall be delivered to, or left in the Office of the Sheriff, some Time before the Return of such Writ; and that every Writ of Alias Scire facias shall be delivered to, or left in the Office of the Sheriff, four Days exclusive before the Return of such Writ; and every Sheriff shall Write or Indorse on every such Writ, the Day of the Month in which the same is delivered to him or left in his Office. (c)

Before a Scire facias is made out against the Bail, the Declaration must be entered upon the Rolls at Westminster of the same Term the Declaration was of, with an *Adhuc de Termino*, and after the Declaration the Defendant's Appearance and the Recognizance of the Bail are to be entered.

If a Recognizance in B. R. be entered of Record, a Scire facias may be brought in Middlesex, but in C. B. the Scire facias may be laid in the County where the Caption was, or in Middlesex, where it is filed. Salk. 600, 659, 564. Lutw. 1287.

In case of a Recognizance entered into by Bail on a Writ of Error; if it be entered to be taken at a Judge's Chambers in Serjeants Inn, the Scire facias may be sued out in London. See Mod. Ca. in Law and Eq. 290.

If the Action and Condition of the Recognizance be set forth in the Scire facias, and it appears to be by Bill, the Scire facias must be returnable on a Day certain; otherwise it may be made returnable on a general Return, *Ubique*, &c. 2 Lilly 499.

Every Scire facias by Original ought to have fifteen Days inclusive between the Teste and Return, and are made out by the Filaxar of the County.

If the Proceedings are by Bill, fifteen Days inclusive between the Teste of the first and Return of the Alias scire facias are sufficient, and each Scire facias should have seven Days between the Teste and Return; but if one Scire facias only issue, and a Scire feci be returned, the Time between the Teste and Return is not settled.

Nor is the Time settled for warning the Defendant before the Return of the Writ; but it is said if he be summon'd the Day before, or even on the Day of the Return of the Writ, it is sufficient.

The first Scire facias against Bail ought to bear Teste the Day of the Return of the Ca' Sa', and the second Scire facias the Day of the Return of the first, and delivered or left in the Sheriff's Office as directed by the above Rule; and see the Note Trin. 8 W. III.

At the Return of the second Scire facias, or of the first if a Scire feci be returned, a Rule must be given for the Defendant or Bail, as the Case is, to appear, and then the Scire facias awarded on the Roll.

Where two Scire facias's issue returnable in different Terms, the first must be entered of the Term wherein it is returnable, and an Award of the second is sufficient without setting it forth at large. If the Bail appear, a Declaration must be delivered on double penny Stamp, a Rule given to plead and Plea demanded as in other Cases.

No Judgment given either for Plaintiff or Defendant upon a Writ of Nisi prius or Inquiry, can be entered until the Expiration of four Days exclusive of the Entry of a Rule for Judgment, during which four Days the Party against whom the Judgment is given, may first move for a new Trial, and if it be denied, may then move in Arrest of Judgment, but cannot move for a new Trial after he hath moved in Arrest of Judgment, and failed.

Sunday or any other Day on which the Court doth not sit is not reckoned one of the four Days, unless the Rule be entered on the last Day of the Term or within four Days after the Term, (during which four Days it is the Practice to enter these Rules as of the last Day of the Term) and at the Expiration of four Days exclusive after entering such Rule, Judgment may be entered.

This Rule ought not to be entered before the Day in Bank, and is not necessary if the Plaintiff be nonsuited; for in that Case Judgment may be entered immediately after the Day in Bank.

After the Rule for Judgment is out, the Record is to be stamped with a double Half-Crown Stamp, *Costs de Incremento* taxed by the Secondary, the Judgment then entered of Record, and such Execution as is proper sued out.

But if either of the Parties die, Execution cannot be taken out upon the Judgment till a Sci' fa' sued out, and Judgment thereupon obtained. Stat. 8 & 9 W. III. cap. 10.

If no Execution be sued out within a Year, the Judgment must be revived by Scire facias directed into the County where the Original Action was brought.

But if a Fi' Fa', Ca' Sa', or Elegit be taken out within the Year, and returned and awarded on the Roll, the same may be continued from Term to Term, to the Time of the Execution thereof altho' after the Year, and be as assual as if Judgment had been revived by Scire facias.

If the Defendant brings a Writ of Error, and delays the Plaintiff for a Year, and then is nonsuited, Execution may be taken out without a Scire facias.

And see Salk. 322, 598. In Case of an Injunction, or the Judgment be of many Years standing.

Trin. 5 & 6 Geo. II. 1732.

A General Rule.

Time of Pleading.

It is Ordered, That upon all Procefs to be sued out of this Court, returnable the first or second Return of any Term, if the Plaintiff declares in London or Middlesex, and the Defendant lives within twenty Miles of London, the Declaration shall be delivered with Notice to plead within four Days after the De-

livery thereof, and the Defendant shall plead within the same four Days, without any Imparlance, and in case the Plaintiff declares in any other County, or the Defendant lives above twenty Miles from London, the Declaration shall be delivered, with Notice to plead within (a) eight Days after the (b) Delivery thereof, and the Defendant shall plead within the said eight Days without any Imparlance; and on Default of Pleading as aforesaid, the Plaintiff may sign his Judgment; any Rule of this Court to the contrary notwithstanding.

By the Court.

(a) The four and eight Days are accounted exclusive in this Court. See Mich. 10 Geo. II. Hil. 2 Geo. II. and Tri. 1 Geo. II.

(b) In both Cases the Declaration must be delivered at least four Days before the end of the Term exclusive of the Day of Delivery; otherwise the Defendant is intitled to an Imparlance.

The Defendant is not bound to plead to a Declaration by Original till Oyer, and a Copy of the Original is given him if he demands it.

If

If the Plaintiff in his Declaration sets forth a Profert in Cur of any Deed, Writing, Letters of Administration, or the like, the Defendant may pray Oyer, and must have a Copy thereof delivered to him, paying for the same after the Rate of four Pence per Sheet, and also for the Stamps, and shall have such Time to plead after the Delivery, as he had when he demanded Oyer. So likewise if the Defendant in his Plea make a Profert of any Deed, &c. the Plaintiff may pray Oyer, and shall have a Copy at the like Rate, and the same Time to reply as he had at the Time of demanding Oyer.

If a Judgment or Matter of Record in the same Court be pleaded, the Party pleading the same must on Demand give a Note in Writing of the Term and Number-Roll whereon such Judgment or Matter of Record is entered and filed, or in Default thereof the Plea is not to be received.

If the Defendant plead a dilatory or frivolous Plea, the Court on Motion will order that he stand to his Plea, or plead some other Plea peremptorily on the Morrow; or if it be towards the end of the Term, (that the Plaintiff may have sufficient Time to give Notice of Trial) the Court will order the Defendant, if he will not abide by his Plea, to plead another Instantly, provided always that the Time allowed by the common Rule to plead be expired; and the Practice is the same with regard to frivolous Demurrers.

The Defendant cannot waive the general Issue, and instead thereof give a special Plea or Demurrer, nor waive a general Demurrer and give a special Demurrer or special Plea. But if a special Plea or special Demurrer be given in, and the Book is made up, and delivered to the Defendant's Attorney, he may strike out the special Plea or Demurrer, and return it with the general Issue or general Demurrer.

If a Defendant is bound by Rule or Order of Court, to plead by a Time therein limited, it is incumbent on him to plead by such Time, altho' the Plaintiff does not enter any Rule to plead, or call for a Plea.

If a Defendant be bound by Rule of Court or Order of a Judge, to plead an Issueable Plea, and take Notice of Trial, and plead accordingly, and the Plaintiff replies, the Defendant may without Breach of the Rule or Order Demur to the Replication.

If four Terms are elapsed after the Declaration is delivered, the Defendant shall have a whole Term's Notice to plead before Judgment can be entered against him, or if a Cause hath continued four Terms without Prosecution before Issue joined, each Party shall have a whole Term's Notice to Reply, Rejoin, &c. unless the Cause has been stayed by Injunction or Privilege.

If the Plaintiff amend his Declaration, the Defendant shall have two Days exclusive of the Day of Amendment, to alter his first Plea or plead any other.

If the Defendant hath pleaded to Issue, and the Plaintiff neglects to enter the Issue the same Term it is joined, the Defendant may within the first five Days of the ensuing Term waive or alter his Plea or Demurrer. *Quare*, Can he waive the general Issue?

In Order to plead two or more Matters, it is not necessary that Affidavit be made of the Facts; but the Court expects to be informed what the Matters be that are desired to be pleaded in order to Judge whether they are proper.

Pleas to the Jurisdiction of the Court, or in Abatement, and every Plea of Tender or Uncore prift, ought to be pleaded before the Rules are out, and cannot be pleaded after a general Imparance. See East. 5 Ann.

Special Pleas are to be left with the Clerk of the Papers. See Mich. 2 W. & M.

General Pleas are wrote on double Penny stamp Paper, and delivered to the Plaintiff's Attorney, or if his Place of Abode be unknown, the Plea may be entered in the general Issue Book kept by the Clerk of the Dockets, for which you pay four Pence, and you pay the Plaintiff's Attorney one Shilling for the Entry.

Mich. 6 Geo. II. 1732.

Notice fixed up in the Office:

Sheriffs.

Notice is hereby given to all Sheriffs and Under-Sheriffs, That upon being served with a Rule, peremptorily to return any Writ issuing out of this Court, or to bring in the Body of any Defendant within six Days after Notice; if the same be not done in the said Time, they will be liable to an Attachment without a further Rule as heretofore. (a)

(a) If the Plaintiff be dissatisfied with the Bail taken by the Sheriff upon the Arrest, and the same Persons offer to become Bail above, the Plaintiff may enter an Exemption against them, and serve the Sheriff with a Rule to return the Writ within six Days after Notice, and on the Return of the Writ may serve him with the like Rule to bring in the Body, according to the above Rule, altho' where the Sheriff hath taken insufficient Bail, and the Defendant is at large, or hath escaped, and the Return of the Writ is passed, he cannot comply with the Letter of the Rule, but the Intent thereof is, that good Bail be put in, or the Sheriff will be liable to an Attachment.

(b) But Affidavits sworn before a Judge in Town may be read before filing.

Mich. 9 Geo. II. 1735.

Notice fixed up in the King's Bench Office.

Affidavits.

THE Court having declared, that no Affidavit sworn before a (b) Commissioner in the Country, ought to be, or shall be at any Time hereafter read in Court, or before the Master, but that every such Affidavit ought first to be filed, and a Copy thereof made, and such Copy read.

It is desired, That all such Affidavits be brought to the Clerk of the Rules of this Court, to be filed in such convenient Time, that Copies of them may be duly made, and delivered to the Party filing the same.

Mich.

Mich. 10 Geo. II. 1736.

Declaring by the Bye.

A General Rule, for settling and declaring the Practice of this Court touching Declaring by the Bye, in Cases where the Plaintiff in any Action or Suit, hath filed or shall file common Bail for the Defendant, pursuant to the late (a) Act of Parliament, For preventing Frivolous and Vexatious Arrests :

It is Ordered, That in all such Cases the Plaintiff in such Action or Suit, wherein Common Bail hath been or shall be so filed as aforesaid, may deliver a Declaration by the Bye against such Defendant, in like Manner as might have been done by the ancient Course of this Court: But that no other Person, except such Plaintiff, is or shall be capable of delivering a Declaration by the Bye, against any Defendant, by Reason of Common Bail being so filed by any Plaintiff as aforesaid. (b)

Filing Common Bail for Defendant.

And for the better distinguishing by whom Common Bail shall have been filed in any Action or Suit : It is further Ordered, That from and after the last Day of this Term, in all Cases where Common Bail shall be filed by the Plaintiff for the Defendant, by Virtue of the said Act, these Words shall be written on the Bail-piece, viz. (Filed according to the Statute) or Words to the like Effect.

By the Court.

(a) Stat. 12 Geo. I. cap. 29. & 5 Geo. II. cap. 27.

(b) *When the Defendant has filed Common or Special Bail for himself, any Person may deliver or file a Declaration against him by the Bye, at any Time during the Term wherein the Process against the Defendant is returnable, sedente Curia; and the Practice hath been, that the Plaintiff at whose Suit the Process is, might declare against the Defendant in as many Actions as he thinks fit before the end of the next Term after the Return of the Process.*

(c) The four and eight Days in this Court are reckoned exclusive.

(d) *Delivering a Declaration unless de bene esse before Bail put in is a Waiver of the Bail, see the Note, Mich. 8 Ann.*

A Declaration may be amended in Matter of Form after a General Issue pleaded, and before Entry, without paying Costs or giving an Imparance; but if amended in Substance, the Plaintiff must pay Costs, or give an Imparance; and if the Amendment be in Substance after a special Plea pleaded, the Plaintiff must pay Costs tho' he had rather give an Imparance.

In all Cases of Amendment after Plea pleaded, the Defendant has Liberty to plead again, and has two Days for that Purpose after the Amendment made and Payment of Costs.

If a Rule to plead be entered the same Term the Amendment is made, tho' before such Amendment, it is sufficient, otherwise a new Rule to plead must be entered. The Plaintiff after Plea pleaded, or after the End of the second Term, shall not add a new Count to his Declaration under Pretence of amending his Declaration.

A Bill on the File may be amended at any Time before Plea pleaded during the Term of which it is filed, but not afterwards without Leave of the Court.

The Plaintiff may, if he sees Occasion, discontinue either before or after Declaration delivered by Motion at the Side-Bar, on Payment of Costs.

On Process out of the Court of King's Bench, returnable at a Day certain, if the Defendant appear by his Attorney and file Bail of the Term wherein the Process is returnable, and the Plaintiff doth not declare before the End of the Term next following, a Non-profs may be signed without entering any Rule to declare, or calling for a Declaration, and the Defendant shall have Costs taxed as usual, Stat. 13 Car. II. cap. 2. and if the Declaration should be tendered at any Time after the End of the second Term, and before the Non-profs is signed, the Defendant is not bound to accept of it, but may sign his Non-profs at any Time after the End of the second Term.

But if the Proceedings are by Original, the Defendant, must, before the End of the second Term, or within four Days after, enter a Rule for the Plaintiff to declare, and demand a Declaration in Writing; and if the Plaintiff does not declare before the Rule is out, the Defendant may at any Time before the Effoin-day of the next Term, sign a Non-profs, but not afterwards; the Practice in this Case being the same as in the Common Pleas. See the Rule ibers. Mich. 9 Anne, reg. 3.

The same Term, 1736.

A General Rule.

Delivering Declarations de bene esse.

It is Ordered, That from and after the last Day of this Term, upon all Process to be issued out of this Court, returnable the first or second Return of any Term, where no Affidavit shall be made and filed of the Cause of Action, pursuant to the late Act of Parliament for preventing Frivolous and Vexatious Arrests, the Plaintiff may deliver the Declaration de bene esse, at the Return of such Process, with Notice to plead in (c) eight Days after the Delivery thereof; and if the Defendant doth not file Common Bail, and plead within the said eight Days, the Plaintiff having filed Common Bail for such Defendant, according to the said Act, may sign Judgment for want of a Plea, a Rule to plead being duly entered.

And it is further Ordered, That from and after the last Day of this Term, upon all Process to be issued and made Returnable as aforesaid, where an Affidavit shall be made and filed of the Cause of Action, pursuant to the said Act, the Declaration may be (d) delivered de bene esse, at the Return of such Process, with Notice to plead in (c) four Days after such Delivery, if the Action be laid in London or Middlesex, and the Defendant lives within twenty Miles of London; and in eight Days, if the Action is laid in any

[q] other

Trin. 1738.

Rules and Orders in B. R.

Trin. 1739.

other (c) County, or the Defendant lives above twenty Miles from London; and if the Defendant puts in Bail, and doth not plead within such Time as is respectively before mentioned, Judgment may be signed, a Rule to plead being duly entered.

By the Court.

Trin. 10 & 11 Geo. II. 1737.

Records of Nisi prius.

TO prevent Delays in the Trial of Causes in the Circuits, It is Ordered by all the Judges of England, That in every Cause to be tried before them in their respective Circuits, the Writ and Record shall be enter'd together, and that no Record shall be received without the Writ.

Wm. Lee,	{	Alex. Denton,	{	J. Fortescue A.
J. Willes,		Law. Carter,		W. Thomson,
Ja. Reynolds,		E. Probyn,		W. Fortescue.
F. Page,		J. Comyns,		

Trin. 1738.

Notice fixed up in the Office, June 2, 1739.

Rolls.

Complaint having been made to the Lord Chief Justice of this Court, by Samuel Billingsley, Stationer, that several Persons presume to deliver out the Rolls of this Court without any Appointment for that Purpose, This is therefore to give Notice, That from and after the End of this

(c) Actions upon the Case, Trespass for Goods, Assault or Imprisonment and other transitory Actions, except Debt, Scan. Mag. Escape, Deceit, on a false Return, against a Carrier or Lighterman, on the Stat. of Usury, Covenant, and if said on a Note; are to be laid in their proper Counties; or on Motion made before the Rules for Pleading are out, and Affidavit that the Action arose in the County of — and not in the County of — (where the Action is laid) or elsewhere, the Court will change the Venue. See Mich. 1654. sec. 5.

But if Evidence necessary to support the Action arises in two Counties, the Venue may be laid in either County, or if the Plaintiff will be bound to give some material Evidence in the County where the Action is laid, the Court will not change the Venue.

If a Barrister, Attorney or Officer of the Court be Plaintiff, and the Action be laid in Middlesex, the Court will not change the Venue; and if any such Person be a Defendant and sued in any other than in Middlesex, the Court will on Motion alter the Venue to Middlesex; but where they sue or are sued in Auter droit as Executors, &c. or jointly with other Persons, then they lose their Privilege.

After the Effoin-day of the subsequent Term after Appearance, the Plaintiff shall not alter his Venue, tho' he would pay Costs, or give an Imparance.

present Trinity Term, no Roll or Rolls will be received and allowed for by the Clerk of the Treasury of this Court, unless the said Rolls are marked with the said Samuel Billingsley's Mark.

Trin. 1739.

Notice fixed up in the Office, June 28, 1739.

Non Omittas to the Liberty of Ely.
TAKE Notice, That I Robert by Divine Permission Lord Bishop of Ely, Lord of the Royal Franchise of Ely, the Liberty of the Bishop of Ely, claim the Execution of all Process and Return of Writs within the Royal Franchise of Ely in the Isle of Ely and County of Cambridge, and I have constituted Edward Partheriche of Ely in the said Isle and County, Esq; my Bailiff, to execute the said Process and make Returns thereof in his Name, and that in Case you make out any Writ or Writs of Non Omittas, directed to the Sheriff of the said County in order to enter my Liberty of Ely, without first issuing previous Process to warrant the same, and a Mandavi Ballivo returned thereon by the said Sheriff and filed, I will commence one or more Action or Actions against you for the same. Given under my Hand this 28th. Day of June, 1739.

R. Ely.

To Edward Ventris, Esq;
Chief Clerk of the
Court of King's Bench.

Rules and Orders of the Court of King's Bench.

Mich. 14 Geo. II. 1740.

Bail.

I. **A** General Rule. **It is Ordered**, That no Attorney of this, or any other Court, shall be Bail in any Action or Suit depending in this Court.

By the Court.

The same Term.

Bail.

II. **A** General Rule. **It is Ordered**, That no Sheriffs Officer, Bailiff, or other Person concerned in the Execution of Process, be permitted to be Bail in any Action or Suit depending in this Court.

By the Court.

Hil. 14 Geo. II. 1740.

Nisi Prius.

W Hereas for regulating Trials by Nisi Prius in the Circuits, an Order was made by all the Judges of England in Trinity Term in the 10th and 11th Years of his present Majesty, 'That in every Cause to be tried before them in their respective Circuits, the Writ and Record should be entered together, and that no Record should be received without the Writ;' which Order hath not fully answered the Intent thereof, but notwithstanding many Inconveniencies do still happen to the Suitors, by delaying or putting off the Trials of their Causes;

Now in Order more effectually to prevent these Inconveniencies for the future,

It is Ordered by all the Judges of England, That no Writ and Record of Nisi Prius shall be received at the Assizes in any County in England, unless they shall be delivered to be entered with the Marshal before the first Sitting of the Court after the Commission-day, except in the Counties of York and Norfolk, and there the Writs and Records shall be delivered to and entered with the Marshal, before the first Sitting of the Court, on the second Day after the Commission-day, otherwise they shall not be received.

And that every Cause shall be tried in the Order in which it shall be so entered, without any Preference or Delay, unless it shall be made out to the Satisfaction of the Judge in open Court, that it is impracticable or inconvenient so to do; who thereupon may make such Order for the Trial of the Cause so put off, as to him shall seem just.

And it is further Ordered, That a List of the Causes, when so entered as aforesaid, shall be made by the Marshal, and forthwith fixed up in some publick Place in the Nisi Prius Court, there to remain during the whole Time of the Assizes.

W. Lee,	{	Law. Carter,	{	T. Parker,
J. Willes,		J. Fortescue A.		M. Wright,
E. Probyn,		W. Fortescue,		Ja. Reynolds,
F. Page,				Tho. Abney.

East. 15 Geo. II. 1742.

Bail.

I. General Rule. **W** Hereas by the Rules of this Court in Actions of Debt, upon any Recognizance of Bail on mesne Process, the Bail are allowed eight Days in full Term after the Return of the Process sued out, and served upon any of them, to surrender the Defendant in the Original Action, for the discharging him or themselves from such Recognizance;

And whereas by the Course of this Court the Plaintiff suing out a Writ in a Plea of Trespass may declare in any Action he thinks fit, which may be a Surprise on such Bail;

This Court doth therefore Order, That from and after the last Day of this Term in all such Writs or Process to be sued out of this Court upon any such Recognizance of Bail after the Words, "in a Plea of Trespass", there shall be inserted the following Clause, "And also to a Bill of the said Plaintiff against the said Defendant in a Plea of Debt upon Recognizance according to the Custom of our Court before us to be exhibited". Otherwise the Defendant, or his Attorney, shall not be bound to accept of a Declaration in Debt upon such Recognizance.

By the Court.

The same Term 1742.

Affidavits.

II. General Rule. **W** Hereas the swearing of Affidavits before Commissioners authorized to take Affidavits in this Court in Causes, wherein such Commissioners are concerned as Attornies for the Parties on whose Behalf such Affidavits are made, is, and hath been disallowed as irregular; which with respect to Affidavits made of the Cause of Action before Process sued out in Order to hold Defendants to Bail hath been found inconvenient;

It is Ordered, That from and after the last Day of this Term all Affidavits of any Cause of Action before Process sued out to hold Defendants to Bail, may be sworn before any Commissioner authorized to take Affidavits in this Court, although such Commissioner be concerned as Attorney for the Plaintiff, and shall be deemed to be regularly taken.

By the Court.

The same Term 1742.

Prisoners.

III. General Rule. **F**OR preventing the Detainers of Prisoners charged by Declarations, in the Custody of the Marshal of the Marshalsea of this Court, where the Cause of Action against such Prisoners does not amount to ten Pounds;

It is Ordered, That from and after the last Day of this Term, no Declaration whereby any Prisoner shall be charged in the Custody of the Marshal, shall be sufficient Cause of detaining such Prisoner in Custody, unless an Affidavit that the Plaintiff's Cause of Action against such Prisoner does amount to ten Pounds or upwards,

Rules and Orders of the Court of King's Bench.

wards, shall be first made and filed with the Clerk of the Rules of this Court, and the Sum specified in such Affidavit shall be indorsed by him upon such Declaration, before leaving thereof with the Turnkey.

By the Court.

Notice fixed up in the King's Bench Office.

Mich. 17 Geo. II. 1743.

Records.

Notice is hereby given, that from and after the last Day of Michaelmas Term 1743. No Record or Writ of *Nisi prius* will be received at any Sitting after Term in *Middlesex*, unless the same shall be delivered to, and entered with the Marshal, within two Days after the last Day of every Term.

And that no Record or Writ of *Nisi prius* will be received at any Sitting after Term in *London*, unless the same shall be delivered to, and entered with the Marshal, the Day before the Day to which the Sittings in *London* shall be first adjourned.

And that every Cause to be tried at *Nisi prius* in *London* and *Middlesex* shall be tried in the Order in which it is entered (beginning with *Remanets*) unless it shall be made out to the Satisfaction of the Judge of *Nisi prius* in open Court, that there is reasonable Cause to the contrary, who thereupon will make such Order for the Trial of the Cause so to be put off, as to him shall seem just.

Hil. 20 Geo. II.

Attornies.

It is Ordered, That from and after the last Day of this Term every Attorney of this Court who shall sue out any Attachment of Privilege against any

Defendants shall leave a *Præcipe* with the Signer of the Writs, with the Defendants Names, not exceeding four in each Writ, with the Return and Day of signing such Writ, with the Agent's or Attorney's Name who sued out the same; and all such *Præcipes* shall be entered on the Roll where the *Præcipes* of *Latitats*, and all other Writs issuing out of this Court are entered; and that Officer that signs the Writs in this Court shall not sign such Attachment till a *Præcipe* be left with him for that Purpose.

By the Court.

Notice fixed up in the Seal Office, Inner-Temple Lane, 3d April 1747.

Writs.

Whereas the Fees of this Office bring lately very much decreased, to the manifest Prejudice of the Patentee and Chief Justices of the respective Courts of King's Bench and Common Pleas; and the same appearing for some Time past to be in a great Measure owing to the Sealing of Blank Writs, several of which, after Sealing them, have been made Testaments, and Non Omittas's, besides other Irregularities practised thereby;

It is Ordered, That for the Future, no printed Blanks, or other Writs whatsoever, be Sealed before the same are regularly made out and filled up.

By Order of the

COMPTROLLER.

T H E T A B L E.

Abatement.

See *Pleading* 4.

Acetiams.

1. **N**O *Acetiam* to be inserted in Writs against Heirs, Executors or Administrators, or where special Bail is not required. *Mich. 15 Car. II. reg. 2.*
2. In special Writs the Cause of Action need not be set forth at large in the *Acetiam*. *Hil. 2 Geo. II. reg. 1.*
3. —Specimens thereof. *Ibid. reg. 2.*

ACTIONS.

1. — to be laid in their proper Counties. *Mich. 1654. sec. 5. — Mich. 10 Geo. II. reg. 2. the Note (a) and see Venus 1. to 8.*

Additions.

See *Affidavits* 1.

1. The Defendant's Degree, Quality or Mystery, to be inserted in Actions of Trespass, *Vi & Armis Contra Pacem, &c.* *Mich. 15 Car. II. reg. 4.*

Admission.

See *Attorney* 1, 2. *Pauper* 1.

Affidavits.

1. The true Place of Abode and Addition of Persons making Affidavit to be inserted therein. *Mich. 15 Car. II.*
2. Affidavits taken in the Country to be filed before read in Court or used before the Master. *Mich. 9 G. II.*
3. — But need not, if sworn before a Judge in Town. *Ibid. Note (b).*

Amendment.

See *Declarations* 23. to 25.

Appearances.

See *Bail* 1. to 8.

1. Voluntary Appearance invalid, unless Process be sued out in 14 Days. *Trin. 4 W. & M. reg. 1.*
2. Attorneys at the End of every Term were to deliver to the Secondary a Note of Appearances made to them *Easter 1657.*

3. Attorneys not appearing according to their Undertaking liable to Attachment. *Mich. 1654. sec. 10.*

Arrest.

1. A Defendant discharged from Arrest shall not be arrested again at the same Time at the same Plaintiff's Suit. *Mich. 15 Car. II. reg. 2.*

Arrest of Judgment.

1. Four Days to move in Arrest of Judgment after Entry of the Rule. *Easter 5 Geo. II. reg. 3. Note (c).*
2. Sunday or any Holiday to be accounted one of the four Days, unless it be the last. *Ibid.*

Attachment.

See *Attorneys* 15. *Sheriffs* 4.

Attachment of Privilege.

See *Attorneys* 21. 23.

Attendances.

See *Attorneys* 8.

Attorneys.

1. How and who were formerly to be admitted Attorneys. *Mich. 1654. sec. 1. & sec. 4.*
2. Attorneys not to be admitted and sworn according to the Stat. 2 Geo. II. the Note *Mich. 3 Ann.*
3. — should procure themselves to be admitted of some Inns of Court. *Mich. 3 Ann. Mich. 36. and Trin. 29 Car. II. Mich. 1654 sec. 1.*
4. — except they are Housekeepers in London, or the Suburbs, &c. *Mich. 3 Ann.*
5. — at what Time they are to appear in Court in each Term. *Trin. 14 Car. II. Hil. 14 Car. I. or lose their Privilege for Non-Attendance. Mich. 1654. sec. 1.*
6. — to attend the Court on Notice of Motion. *Easter 1656. Easter 14 Car. II.*
7. — to attend the Master on Notice. *Hil. 15 Car. II. reg. 1. Trin. 8 W. III.*
8. — not to be summoned to attend at a Judge's Chambers during the Sitting of the Court. *Mich. 11 Geo. I.*
9. — nor attend after the third Day after the Term to make Rules. *Trin. 14 Car. II. reg. 2.*
10. Attornies

The TABLE to the Rules and Orders in B. R.

10. Attornies paying 2 s. each Term to the Clerk of the Declarations may file Bills, &c. and search Files *Gratis*. *Easter* 19. and *Mich.* 15 *Car.* II. *reg.* 3.

11. No Distinction now used between the Clerks of the Office and Attornies. *Trin.* 1 *Jac.* II. Note (b). *Mich.* 5 *Ann.* *reg.* 1. (c).

12. —not to receive Pleadings which ought to be left with the Clerks of the Papers. *Trin.* 2 *Jac.* I. *Trin.* 16 *Car.* II. *Mich.* 2 *W. & M.*

13. —to enter in the Office all Pleas and Demurrers in three Days after Term. *Hill.* 14 *Car.* II.

14. The Attorney not to be changed without an Order and Notice to the adverse Party. *Mich.* 1654. *sec.* 10.

15. —not appearing according to their Undertaking liable to Attachment. *ibid.* *sec.* 10.

16. —not to procure or receive Blank Warrants, nor before the Writ is sued out. 15 *Car.* II.

17. —not to suffer others to practise in their Names. *Mich.* 1654. *sec.* 1. 10.

18. —nor after Dismission by one Court to practise in another Court. *ibid.*

19. Retainer of an Attorney of C. B. by an Attorney of the Upper Bench, & e converso sufficient. *Mich.* 1654. *sec.* 10.

20. No Attorney to be Bail or Lessee in Ejectment. *Mich.* 1654. *sec.* 1.

21. A Jury of Attornies to be impannelled once in three Years for reforming Abuses, and Twelve appointed to examine Attornies before Admittance. *Mich.* 1654. *sec.* 3, 4. *disused.*

22. Attornies not to bring Actions till a Month after their Bills are delivered. *Mich.* 5 *Ann.* *reg.* 3. (a).

23. In what Time an Attorney or Person sued by him must plead. *ibid.* (a).

24. —their Privilege as to laying and altering the Venue. *Mich.* 10 *Geo.* II. *reg.* (e).

Audita Querela.

1. No *Audita Querela* to be allowed, or Bail taken therein, but in open Court. *Trin.* 9 *Jac.* I.

Bail (Common.)

1. IN what Time Common Bail was formerly to be filed. *Mich.* 16 *Car.* II.

2. Defendant now to file Common Bail in eight Days after Service of Process, or Plaintiff may do it for him. *Ibid.* the Note (d)

3. If Bail be filed by the Plaintiff for the Defendant according to the Statute, it must be so marked on the Bail-piece. *Mich.* 10 *Geo.* II. *reg.* 1.

4. The Fees taken for filing Common Bail. *Trin.* 4 *W. & M.* *reg.* 2.

5. Common Bail to be filed on Judgments acknowledged by Warrant of Attorney. *Hill.* 1 *W. & M.*

6. —to be filed on Judgments by Confession or Default. *Trin.* 4 *W. & M.* *reg.* 2.

7. —to be filed by Defendant's Attorney in Ejectment. *Mich.* 33 *Car.* II.

8. Formerly Attornies were to deliver to the Secondary a Note of Appearances made to them, that it might be seen if Common Bails were filed. *Easter* 1657. *reg.* 2.

9. In what Cases Special Bail is not required. See 11. to 15.

Bail (Special).

10. Where the Debt is 10 l. or above, and Affidavit made thereof, Special Bail must be put in. *Stat.* 12 *G.* 1.

11. No Special Bail in Debt on a Judgment, unless the Debt or Damages without Costs amount to 10 l. *Easter* 5 *Geo.* II. *reg.* 1. (d).

12. —nor in Covenant, unless by Rule of Court, or the Covenant be for Payment of Money. *Ibid.*

13. —nor in Actions against Bail on the Bail-Bond. *Mich.* 8 *Ann.* (f).

14. —nor in Battery, false Imprisonment, Privilege (except for Fees) or Slander of Title, unless Special Motion and Order. *Mich.* 1654. *sec.* 9.

15. —nor in Actions against Heirs, Executors or Administrators. *Mich.* 15 *Car.* II. *reg.* 2.

16. The Husband to put in Bail for his Wife as well as himself. *Easter* 5 *Geo.* II. *reg.* 1. (d).

17. Special Bail in London and Middlesex to be put in in four Days after the Return of the Writ, in other Counties in six. *Mich.* 8 *Ann.* *reg.* 1. —Former Rule. *Easter* 11 *W.* III. *reg.* 2.

18. Sunday, if it be the last Day, not accounted one of those Days. *Mich.* 8 *Ann.* *reg.* 1. (e).

19. Notice to be given in Writing of Bail put in on a *Capi corpus*. *Mich.* 16 *Car.* II. —Former Rule, *Mich.* 21 *Car.* I.

20. Bails how taken by Commissioners in the Country. 8 *W.* III. *reg.* 3.

21. —the Form of the Bail-piece, and Condition of the Recognizance. *Ibid.*

22. —to be transmitted in eight Days, if within forty Miles of London, if above, in fifteen. *Ibid.*

23. Affidavit to be made of the due taking thereof. *Ibid.*

24. Exception to Bail to be made in twenty Days after Notice, or of no Validity. *Mich.* 8 *Ann.* *reg.* 2. —8 *W.* III. *reg.* 3. *Mich.* 16 *Car.* II.

25. Exception to Bail before a Judge to be entered in the Judge's Bail-Book. *Mich.* 8 *Ann.* *reg.* 2. (a).

26. Exception to Bail by Original to be entered in the Filazer's Book. *Easter* 2 *Geo.* II.

27. No excepting to Bail after Declaration delivered, unless delivered de bene esse. *Mich.* 8 *Ann.* *reg.* 2. (a). *Easter* 5 *Geo.* II. (a).

28. After the Plaintiff hath taken an Assignment of the Bail-Bond, and the same Persons become Bail above, he cannot except against them. *Mich.* 8 *Ann.* (f).

29. If the Plaintiff be dissatisfied with the Bail taken by the Sheriff, and they offer to become Bail above, he may give a Rule to return the Writ, and the like to bring in the Body; on Default, may have an Attachment against the Sheriff. *Mich.* 6 *Geo.* II. (a).

30. Bail on Exception in Term to be perfected in four Days after Notice of Exception in Writing. *Easter* 5 *Geo.* II. *reg.* 1.

31. —if in the Vacation, the first Day of the subsequent Term. *Ibid.*

32. Bail in Town are to be justified in Court. *Easter* 5 *Geo.* II. *reg.* 1. (d).

33. —If in the Country by Affidavit. *Ibid.* and 8 *W.* III. *reg.* 3.

34. If Bail be accepted, it ought to be filed in twenty Days. *Trin.* 13 *Car.* II. Former Rules, *Hill.* 1650. *Hill.* 23 *Car.* I.

35. Bail taken before the Continuance-Day is to be filed of the preceding Term; if after, of the subsequent Term. *Easter* 5 *Geo.* II. *reg.* 1. (d).

The TABLE to the Rules and Orders in B. R.

36. The Fees for filing Bail on a *Cepi corpus* to be left in the Hands of the Judges Clerk for the Secondary. *Easter 29 Car. II.*

37. — and they are in fix Days after Term to give a Note of all Bails remaining in their Hands. *Ibid.* and *Mich. 16 Car. II.*

38. One that is Bail cannot be a Witness, but may be changed. *Easter 5 Geo. II. reg. 1. (d).*

39. No Attorney to be Bail. *Mich. 1654. sec. 1.*

40. Bail are liable for so much as is sworn due and indorsed on the Process, though the Plaintiff recovers more than the Action was laid for. *Easter 5 Geo. II. reg. 2. Former Rule, Trin. 2 Car. II.*

41. Bail are discharged by the Defendants declaring in a wrong County, if the Action be by Original, otherwise if by Bill. *Easter 2 Geo. II. (a).*

Bail rendering the Principal.

42. Bail may take the Principal on a Sunday, and render him the Day after. *Trin. 1 Ann. reg. 2. (b).*

43. Bail are liable on the Return of the Ca. Sa. against the Principal, should he then die. *Easter 5 Geo. II. reg. 3. (c). Trin. 1 Ann. reg. 2. (c)*

44. — Proceedings stayed on a Render after a Ca. Sa. returned, but not filed. *Easter 5 G. II. reg. 3. (c).*

45. If there be no Ca. Sa. the Bail may plead it and be discharged. *Ibid.*

46. The Ca. Sa. must lie in the Sheriff's Office four Days before the Return. *Ibid.*

47. What Time the Bail have by the Favour of the Court to render after a Scire facias brought. *Ibid.*

48. What Time where an Action is brought on the Recognizance. *Trin. 1 Ann. reg. 1.*

49. On what Terms Proceedings against Bail may be stayed where a Writ of Error is depending. *Ib. Note (a).*

50. What Notices are to be given on rendering Defendant. *Trin. 1 Ann. reg. 2.*

51. — with whom the Reddedit se is to be left. *Trin. 3 Ann.*

52. Bail are liable after Render if Defendant escape from the Tipstaff after the Return of the Ca. Sa. *Trin. 1 Ann. reg. 2. (c).*

53. — are liable till Notice and an Exoneretur be entered. *Trin. 1 Ann. reg. 2. Trin. 3 Ann. (d).*

Bail in Audita Querela.

54. No Bail to be taken therein but in open Court. *Trin. 9 Jac. I.*

Bail in Error.

55. Notice thereof to be given. *Mich. 5 W. & M.*

56. Exception to be made in twenty Days. *ibid.*

57. Exception to be entered in the Clerk of the Errors's Book. *ibid. the Note (c).*

58. Bail must justify, or better Bail be put in, in four Days after a Rule. *ibid.*

59. — cannot render the Plaintiff in Error. *ibid.*

60. In what Cases Error is no Superfedeas till Bail put in. *ibid. (a) and see Title Error.*

Bail on Habeas Corpus.

61. In all Cases of Removal by Habeas Corpus or Certiorari Special Bail ought to be put in. *Mich. 1654. sec. 9. Hill. 2 Jac. II.*

62. — Except in Actions for Scandal, little Infruits, or the Defendant be an Executor, or Administrator. *Hill. 2 Jac. II.*

63. Bail on Habeas Corpus not to be taken absolutely. *Mich. 1654. sec. 8.*

64. — not to be put in till the Writ be returned. *Mich. 1651. Easter 29 Car. II. Hill. 10 W. III.*

65. — how taken before Commissioners. — *8 W. III. reg. 3.*

66. Notice of putting in Bail to be given in Writing. *Mich. 16 Car. II. (b).*

67. Exception to be made in twenty-eight Days after Notice. *Mich. 16 Car. II. Former Rule, Mich. 1645. sec. 8.*

68. — to be filed in four Days after the twenty-eight. *ibid.*

69. The Fees for filing Bail on Habeas Corpus. *Easter 29 Car. II.*

70. A Procedendo, unless Bail be put in in four Days after a Rule, and Notice thereof in Term, and six Days in the Vacation. *Hill. 10 W. III. (c). Former Rule, Mich. 1654. sec. 8.*

71. — after Exception a Rule for a Procedendo in four Days, unless better Bail, whether in Term or Vacation. *ibid. and Mich. 16 Car. II. (a).*

72. Defendant in Custody not to be discharged 'till the Bail is perfected. *Hill. 2. Ja. II. (f).*

73. The Bail are liable to all Actions in the Return of the Habeas Corpus, declared upon in two Terms. *ibid.*

Bail Bond.

1. — to be in double the Sum sworn due. *Mich. 8 Ann. reg. 1. (d).*

2. — when Actions may be brought thereon. *Mich. 8 Ann. A former Rule, Easter 11 W. 3. reg. 2.*

3. On what Terms the Court will stay Proceedings on the Bail Bond. *Mich. 8 Ann. (f).*

4. A Prisoner taken upon a Capias in Process not to be discharged till he hath given a Bond to appear. *Mich. 1654. sec. 6.*

Bailiffs.

1. — not to practice as Attornies. *Mich. 1654. sec. 1.*

2. — wilfully delaying the Execution of Writs, taking undue Fees, or giving Defendant Notice, liable to Attachment. *ibid. sec. 2.*

3. — liable to severe Punishment on taking from Prisoners in their Custody Warrants to confess Judgment, unless in the Presence of an Attorney. *Easter 15 Car. II.*

Baron and Feme.

1. The Wife taken without the Husband, discharged on filing common Bail. *Trin. 2 Geo. 1. (c).*

2. Husband to put in Bail for himself and Wife. *Easter 5 Geo. 2. reg. 1. (d).*

Capias ad satisfaciendum.

1. If the Proceedings are by Bill, there ought to be eight Days between the Teste and Return of a Ca. Sa. and fifteen if by Original. *Easter 5 Geo. II. reg. 3. (c).*

2. The Ca. Sa. ought to lie four Days in the Sheriff's Office in order to charge Bail. *ibid.*

3. After Judgment, with Stay of Execution, a Ca. Sa. may be sued out to warrant a Testatum Ca. Sa. against the Defendant, but not to affect Bail. *ibid.*

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Carts and Drays.

1. — not to pass between the Hours of Eight and Two in Term-Time in King-street. Hill. 3 & 4 Jac. II. reg. 3.

Certiorari.

1. No Certiorari on a Writ of Error to be sued forth without Motion, after a Certiorari already returned in the same Cause. Easter 11 Car. I. and see Bail 61.

Chester.

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Clerks of the Office.

1. Clerks of the Office not to suffer any one to set their Names to accountable Writs. Hill. 1657.
2. — to have Access to the Rolls. Hill. 1657.
3. — Postea to be delivered only to them. *ibid.*
4. — suffering others in Arrears to sign Writs, or file Rolls in their Names to pay such Arrears. Trin. 20 Car. II.
5. No Distinction now between the Clerks and Attornies. Trin. 1 Jac. II. (b). Mich. 5 Ann. reg. 1. (c).
6. How the Clerks formerly were to account with the Secondary. Easter 15 Car. II. Hill. 15 & 16 Car. II. reg. 3. Trin. 20 Car. II.

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1. — when to move for a Concilium. Trin. 1 Geo. II.

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1. Costs on Amendment, Mich. 1654. *sect.* 13. Mich. 10 Geo. II. reg. 2. Note (d).
2. — for not executing Inquiry. Hill. 8 Geo. I. (a).
3. — for not proceeding to Trial after Notice. Mich. 4 Ann. (c).
4. Upon Removal by Habeas Corpus, the Costs below to be considered, and cast into the Judgment. Mich. 1694. *sect.* 22.
5. — if Judgment be for Defendant, the Charges of putting in Bail. *ibid.*

Countermands.

See Trial 7, 9.

1. — to be in Writing. Mich. 4 Ann. (c).

Days exclusive or inclusive.

1. — for delivering Declaration. Trin. 5 & 6 Geo. II. (b).
2. — to plead. Mich. 10 Geo. II. reg. 2. Trin. 5 & 6 Geo. II. (a).
3. — to plead in Abatement. Easter 5 Ann. (a).
4. — to Reply, Rejoin, &c. Trin. 1 Geo. II. Note (d).
5. — for keeping the Paper Book. *ibid.*
6. — for Notice of Trial. Mich. 4 Ann. (c).
7. — Scire Facias to lie four Days exclusive in the Office. Easter 5 Geo. II. reg. 3.

Declarations.

1. In Declarations, unnecessary Repetitions of the Original Writ to be avoided, and only the Nature of the Action to be repeated. Mich. 1654. *sect.* 12.
2. — upon an original *Clausum fregit*, to mention the Place certainly. *ibid.*
3. — in Covenant to repeat no more of the Deed than necessary. *ibid.*
4. — in Slander, long Preambles to be forborn. *ibid.*
5. — on General Statutes not to repeat the Statute. *ibid.*
6. — in Debt on a Judgment not to repeat the Declaration and Judgment, except against Executors or Administrators. *ibid.* 13.
7. A Copy of the Declaration to be delivered to the Defendant's Attorney, who is to pay for the same. Trin. 12 W. III.
8. — on Non-payment to be left in the Office. Trin. 12 W. III.
9. Declarations not to be delivered to any Solicitor. Easter 1657.
10. — may be left in the Office, if the Abode of the Defendant's Attorney be unknown. Trin. 2 Geo. II.
11. — or if he refuse to pay for the Copy. *ibid.*
12. On Process returnable the first or second Return of any Term; the Declaration to be delivered, with Notice to plead in four or eight Days. Trin. 5 & 6 Geo. II.
13. If Bail be filed by the Plaintiff, Declaration to be left in the Office, and Notice given. Trin. 1 Geo. II.
14. — where no Affidavit is made of the Debt, Declaration may be delivered *de bene esse*, with Notice to plead in eight Days. Mich. 10 Geo. II. reg. 2.
15. — and where Affidavit is made, with Notice to plead in four Days, if in London or Middlesex, &c. otherwise in eight. *ibid.*
16. — the four and eight Days are accounted exclusive. *ibid.* Note (c).
17. Of delivering Declarations by the Bye. Mich. 10 Geo. II. reg. 1. Note (b).
18. — In Case the Plaintiff file common Bail for the Defendant, no other Person to deliver a Declaration by the Bye. Mich. 10 Geo. II. reg. 1.
19. Attornies not to deliver or receive Declarations varying from the Original Writ, or more than one on such Writ. Hill. 8 Car. I.
20. Delivering Declaration, unless *de bene esse*, before Bail put in, is a Waiver of the Bail. Mich. 10 Geo. II. reg. 2. (d).
21. Plaintiff to declare before the End of the second Term, or non-pros'd. *ibid.* (d).

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22. Of delivering Declarations to Prisoners. See Prisoners.

23. A Declaration may be amended in Matter of Form without paying Costs, or giving Imparance. Mich. 10 Geo. II. reg. 2. (d).

24. May be amended on Payment of Costs, or giving an Imparance at the Plaintiff's Election. Mich. 1654. *sect.* 13.

25. — if in Substance after a Special Plea, Costs must be paid. Mich. 10 Geo. II. reg. 2. (d).

26. In what Time after Amendment Defendant is to plead de novo. *ibid.*

27. Bill on the File may be amended before Plea pleaded. *ibid.*

28. A new Count not to be added as an Amendment after Plea, or second Term. *ibid.*

29. — Plaintiff may discontinue before or after Declaration delivered, on Payment of Costs. *ibid.*

Deeds.

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Demurrers.

1. Copy of General Demurrer Book to be delivered and paid for at 4 d. per Sheet, or Judgment. Trin. 12 W. III.

2. General Demurrer cannot be waived. Trin. 5 & 6 Geo. II. Note (b).

3. Special Demurrer may. *ibid.*

4. Special Demurrers to be signed by Counsel. Easter 18 Car. II.

5. In case of a frivolous Demurrer, the Court will order the Defendant to stand by it, or plead de novo on the Morrow, or instantly. Trin. 5 & 6 Geo. II. Note (b).

6. Defendant, when bound to plead an issuable Plea, yet may demur to the Replication. *ibid.*

7. In what Cases the Attornies may make up the Demurrer Book. Trin. 12. W. III. Note (b).

8. Where the Defendant's Attorney may make up the Book. Easter 11 W. III. reg. 1.

9. The Method of Proceeding when the Book is made up by Defendant's Attorney. *ibid.* Note (a).

10. — of going to Argument on Demurrer. Trin. 1 Geo. II. Note (d).

11. Books to be delivered to the Judges two Days before Argument. Easter 2 Jac. II. Note (d).

12. How and by whom delivered. Mich. 17 Car. I.

13. None to deliver Copies of Special Verdicts or Demurrers to the Judges but the Clerks of the Office, who ought to copy them. Hill. 1657.

14. In Demurrers the Cause of Demurrer to be specially assigned. Mich. 1654. *sect.* 17.

15. Matters of Form on both Sides discharged, unless specially assigned. *ibid.*

16. Demurrers were to be entered in the Office in three Days after Term. Trin. 14 Car. II. reg. 2.

Discontinuance.

1. Plaintiff may discontinue before or after Declaration delivered, on Payment of Costs. Mich. 10 Geo. II. reg. 2. (d).

Distringas Jur'.

1. No Alias or Pluries Distringas with Tales for Trial at Bar to Issue till the former Writ be delivered to the

Secondary, that the Issues forfeited may be estreated. Hill. 15 Car. II. reg. 2.

2. Old Distringas to be delivered to Sheriffs within eight Days after Hillary and Trinity Terms. Easter, 1651.

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Ejectment.

1. — the Defendant, where he doth not defend the whole, to give a Note of the Premises in his Possession to the Plaintiff. Trin. 15 Car. II. reg. 1.

2. A Latitat to be sued out, and Bail filed before Judgment against Casual Ejector. Mich. 33 Car. II. See the Note (d). Trin. 14 Car. II. reg. 1.

3. — and a Rule to plead entered before Motion for Judgment. Trin. 18 Car. II. Former Rule, Hill. 1649. reg. 1.

4. When Motion for Judgment is to be made. Trin. 18 Car. II. Note (a).

5. No Attorney to be Lessee in Ejectment. Mich. 1645. *sect.* 1.

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1. Writs of Non omittas to enter the Liberty of the Bishop of Ely not to be sued out without first issuing previous Process, and a Mandavi ballivo returned. Trin. 1739.

Error.

1. A Writ of Error is a Superfedeas as soon as allowed, if Execution be not executed. Mich. 5 W. & M. (b).

2. On what Judgments Error is no Superfedeas without Bail put in. *ibid.* (a).

3. The Bail in Error cannot surrender the Plaintiff in Error. *ibid.* Note (c).

4. Notice to be given without Delay of Bail in Error. Mich. 5 W. & M.

5. — if not excepted against in twenty Days, to be allowed. *ibid.*

6. — to justify, or better Bail put in, in four Days after a Rule. *ibid.* (c).

7. When the Paper Books are to be delivered to the Judges. Easter 2 Jac. II.

8. If the Clerk of the Errors neglects his Duty, the Clerk of the Treasury may do it for him. Trin. 20 Car. I.

9. Writs of Error in the Exchequer Chamber how allowed, and Bail put in thereon. Easter 36 Car. II. Easter 16 Car. II. reg. 2.

10. When Copies of Error and Record are to be delivered to the Judges of the Common Pleas and Exchequer. Easter 33 Car. II.

Execution.

1. — if Execution be not taken out within a Year after Judgment, a Scire Facias must issue to revive the Judgment. Easter 5 Geo. II. reg. 3. Note (c).

2. — but if Execution be issued out, and continued on the Roll, no need of a Scire Facias. *ibid.*

3. — nor in Case of Error or Injunction. *ibid.*

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1. — to the Secondary on bringing Money into Court. *Easter 5 Jac. I.*
2. — for putting in the Record at Affizes. *Easter 13 Jac. I.*
3. — to the Clerk of the Declarations. *Mich. 15 Car. II. reg. 2. Easter 19 Car. II.*
4. Clerks suffering others in arrear, to act in their Names, to pay their Arrears. *Trin. 20 Car. II.*
5. Fees, to be paid by the Prisoners in the King's Bench, Dec. 17. *4 Geo. II.*

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1. What Fines, are to be paid on Original Writs. *Hill. 6 W. & M.*

Filazers:

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Habeas Corpus.

1. — when to be made returnable immediately, and when not. *Mich. 1654. sect. 7, 8.*
2. — may be granted to the Warden of the Fleet, or Keeper of an inferior Prison, and be a good Cause of Detainer. *Mich. 1654. sect. 7.*
3. In what Cases Bail is required on Habeas Corpus. *Mich. 1654. sect. 9. Hil. 2 Jac. II.*
4. No Bail to be put in on Habeas Corpus till the Writ be returned. *Easter 29 Car. II. Hill. 10 W. III.*
5. — twenty Days to except against Bail. *Mich. 1654. sect. 8. — twenty eight by Mich. 16 Car. II.*
6. Notice to be given of putting in, or excepting to Bail. *ibid. and see Bail, 66.*
7. A Procedendo, unless Bail in four Days after a Rule and Notice, in Term, and six Days in the Vacation. *Hill. 10 W. III. (c). Mich. 1654. sect. 8.*
8. After Exception, a Rule for a Procedendo to be in four Days, unless better Bail, whether in Term or Vacation. *Mich. 16 Car. II. (a).*
9. Prisoner not to be discharged 'till the Bail be assented unto, or justified. *Mich. 1654. sect. 7.*
10. The Bail are liable to all Actions in the Return of the Habeas Corpus, declared on in two Terms. *Hill. 2 Jac. II. Note (f).*
11. Plaintiff must declare de novo, the Record being not moved by the Habeas Corpus. *Mich. 16 Car. II. Note (a).*
12. The Plaintiff cannot be non-pros'd for not declaring, if Defendant removes by Habeas Corpus. *ibid.*
13. Causes removed from a City or Town where the Judges seldom go, to be laid in that County the City, &c. is. *Mich. 1654. sect. 9.*
14. — what Time the Defendant has to plead. *Hill. 2 Jac. II. Note (f).*
15. On Commitment to the Custody of the Marshal by Habeas Corpus, Prisoner to remain two Days. *Hill. 5 W. & M.*

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1. — in what Cases formerly entered. *Mich. 1654. sect. 15. Mich. 5 Ann. reg. 3. Note (a).*
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1. What Notice of executing Inquiry must be given. *Mich. 4 Ann. the Note (c).*
2. Defendant obliged to accept of Notice of Inquiry from the Time Notice given of Trial. *Hill. 8 Geo. I.*
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1. No Indenture, Writ of Error, Issue or Demurrer to be inrolled upon Filazers Rolls. *Trin. 1 Jac. II.*
2. Deeds acknowledged in Court to be inrolled on the Rolls of the chief Clerk only, and the Party acknowledging to appear. *Hill. 11 W. III.*
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Irregularities.

1. Advantage thereof to be taken as soon as they happen. *Hill. 2 Geo. II. reg. 3. (b).*

Issue.

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1. Copy of General Issue or Demurrer to be delivered and paid for at 4 d. per Sheet, or Judgment. *Trin. 12 W. III.*
2. What Time Plaintiff has to enter his Issue. *Mich. 4 Ann. (c).*
3. Plaintiff on Rule must enter his Issue, or be non-suited. *ibid.*
4. No Rule to enter the Issue the same Term, unless Notice of Trial be given. *ibid.*
5. The Issue to be entered on Record, or an Incipitur thereof made before the Record of Nisi prius be sealed or passed. *Mich. 5 Ann. reg. 1. Former Rules, Easter 1657. Hill. 1649. reg. 2.*

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1. Warrant of Attorney to confess Judgment by a Person in Custody not binding, unless his Attorney be present. *15 Car. II. reg. 2.*
2. Every Judgment or an Incipitur to be entered on the Roll before such Judgment be signed. *Mich. 5 Ann. reg. 1.*
3. For the better finding Judgments the Defendant's Name to be entered in a Docket alphabetically. *Easter 1657. reg. 1.*
4. The Names of Plaintiff and Defendant, the County where laid, and the Nature of the Action, with the Attorney's Name, to be entered in a Book by the Secondary. *ibid. Easter 17 Jac. I.*
5. Warrants of Attorney to be entered on the Judgment Roll. *Easter 4 Jac. II.*
6. How Judgments ought to be entered on the Roll. *Hil.*

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7. Judgment for not paying for Warrant of Attorney. Mich. 5 Ann. reg. 2.

8. — for not paying for and taking Declaration out of the Office. Trin. 12 W. III.

9. — for want of a Plea. Mich. 10 Geo. II. reg. 2.

10. — for not paying for Copy of General Issue. Trin. 12 W. III.

11. — for not returning the Paper Book. Trin. 1 Geo. II. Note (d).

12. — not to be signed till the Rule is out. *ibid.*

13. When Judgment, though regular, may be set aside. Hill. 2 Geo. II. reg. 3. (a).

14. In Town and Country Causes Judgments may be signed the Day after the Rules for Pleading are out. Hill. 2 Geo. II. reg. 3.

15. In Causes removed by Habeas Corpus the Costs below to be considered and cast into the Judgment. Mich. 1654. *sec.* 22.

16. In Judgments on *Non sum Informatus* or *Nil dicit* in Ejectment, the *Capiatur* to be entered on the first Judgment. *ibid.*

17. No Rule for Judgment on a Writ of *Nisi prius*, or Inquiry, to be given before the Day in Bank. Easter 5 Geo. II. reg. 2. (c).

18. — no Rule on a Nonsuit. *ibid.*

19. — when Judgment may be entered. *ibid.*

20. — when on a Nonsuit. *ibid.*

21. What Time to move in Arrest of Judgment. Easter 5 Geo. II. reg. 3. (c). Hill. 2 Geo. II. reg. 3. (b).

22. Judgment must be reviewed by Scire Facias, if no Execution within a Year. Easter 5 Geo. II. reg. 3. (c).

23. Execution sued out and continued on the Roll as effectual as a Scire Facias. *ibid.*

Jurors and Jury.

1. Three Shillings four Pence to be allowed each Juror lying out one Night for Diet, besides his Lodging. Mich. 1654. *sec.* 19.

2. Sheriffs to give sufficient Summons to Jurors for preventing Tales. Easter 1651.

3. Jurors in old *Distringasses* to be summoned a Week before the Assizes. *ibid.*

4. On Trials at Bar the Secondary to name forty-eight Jurors, and the Attornies of each Side to strike out twelve. Trin. 8 W. III. reg. 2.

5. If either Party neglect to attend, the Secondary to strike out twelve for him. *ibid.*

6. The Party applying for a Special Jury, to pay the whole Expence. The Note *ibid.*

Marshal of the King's Bench Prison.

1. — to suffer none in his Custody, or within the Rules, to go out thereof. Mich. 28 Car. II.

2. Fees to be taken by the Marshal of the Prisoners in his Custody. Dec. 17. 4 Geo. II.

3. Rules for the better Government of the King's Bench Prison. Mich. 3 Geo. II.

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1. One per Cent. to be paid to the Secondary on bringing Money into Court. Hill. 5 Jac. I.

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1. — when it may be entered. Hill. 15 & 16 Car. II.

2. — When at the Sitting after Term. Mich. 4 Ann. (a).

3. Plaintiff hindered of a Trial by a *Ne recipiatur* may try the Cause at the next Sitting, on Notice. Mich. 4 Ann.

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Non-profs.

1. — may be signed if Plaintiff does not declare before the End of the second Term. Mich. 10 Geo. II. reg. 2. Note (d).

2. — may be signed, though the Declaration be tendered after. *ibid.*

3. — how signed when the Proceedings are by Original. *ibid.* and Mich. 1654. *sec.* 15.

4. On Removal by Habeas Corpus Plaintiff must declare in two Terms after Return of the Writ. Mich. 16 Car. II. (a).

5. If the Defendant remove, he cannot non-profs the Plaintiff for not declaring. *ibid.*

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See Non-profs 3.

1. — for not entering the Issue. Mich. 4 Ann. (c).

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1. Notices to be in Writing. Mich. 4 Ann. (c).

2. Notice of Bail. Mich. 16 Car. II.

3. — on Habeas Corpus. *Ibid.* (b).

4. — of Declaration left in the Office. Trin. 1 Geo. II.

5. — to appear and plead. Trin. 5 & 6 Geo. 2. Mich. 10 Geo. II. reg. 2.

6. — to plead where four Terms are elapsed. Trin. 5 & 6 Geo. II. (b).

7. — to reply. *ibid.*

8. — of Trial. Mich. 4 Ann. (c). Hill. 8 Geo. 1.

9. — of Countermand. Mich. 4 Ann. (c).

10. — of executing Inquiry. Mich. 4 Ann. Note (c). Hill. 8 Geo. I.

11. — when Sunday or any Holiday is to be accounted one of the Days, see Sunday.

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1. — to appear by the Effoin-Day of the second Return of every Term. Mich. 1654. *sec.* 1.

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1. — Attornies to deliver Writs of Proclamation, and Sheriffs duly to execute them. Mich. 1654. *sec.* 6.

2. A Prisoner taken upon a *Capias* in Process not to be discharged till he hath given Bond to appear. *ibid.*

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1. — In what Time to plead after Oyer. Trin. 5 & 6 Geo. II. (b).
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1. In what Cases Attorneys may make up the Issue. Trin. 12 W. III. (b).
2. Where the Plaintiff's Attorney may make up the Paper Book without giving a Rule to rejoin. Trin. 1 Geo. II. (d).
3. Book made up in Term, or four Days after, to be returned in four Days. *ibid.*
4. If a Plea comes in late, and the Book be made up in eight Days after, to be returned in four Days. *Ibid.*
5. If the Plaintiff's Attorney accept the Book after the four Days, he cannot sign Judgment. *ibid.*
6. If a Book be not delivered within eight Days after the Term, if in London or Middlesex, or a Demurrer, not to be received till four Days in the next Term. *ibid.*
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9. Method of proceeding where the Paper Book is made up by the Defendant. Easter 11 W. III. reg. 1. (a).
10. In all Paper Books the Names of the Counsel are to be inserted. Easter 18 Car. II.
11. When Books are to be delivered to the Judges. Easter 2 Jac. II.
12. — the Exceptions insisted on to be marked. *Ibid.*
13. — are to be delivered two Days before the Argument, or the Party who does not deliver Books shall not be heard. *Ibid.* Note (d).
14. The Plaintiff to deliver the Paper Book to the Chief Justice and senior Judge, and the Defendant to the other Judges; if either neglect, it shall be done at his Cost by the other before any Argument. Mich. 17 Car. I.
15. Causes standing over were formerly to be entered with the Clerk of the Papers within seven Days after the Term. Easter 1658. Disused of late.

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1. How admitted in Forma Pauperis. Hill. 3 & 4 Jac. II. reg. 1.

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Philizars.

1. — to attend their Offices on Forfeiture thereof. Mich. 15 Car. I.

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2. Four Days only allowed Defendants to plead from the Time of giving Rules. Trin. 1 Geo. II.

3. Sunday when accounted one of the four Days. *ibid.* Note (d).

4. When Pleas in Abatement, Tender or uncore prist are to be pleaded. East. 5 Ann. (a). Trin. 5 & 6 Geo. II. (b).

5. In what Cases the Defendant must plead in four Days, and when in eight Days. Trin. 5 & 6 Geo. II. Mich. 10 Geo. II. reg. 2. Trin. 1 Geo. II.

6. In what Time Defendant must plead where no Affidavit is made of the Debt, and the Declaration delivered with Notice to plead. Mich. 10 Geo. II. reg. 3.

7. In what Time Defendant must plead where the Cause of Action is specially set forth in the Writ. Hill. 2 Geo. II. reg. 1.

8. What Notice to plead where four Terms are lapsed. Trin. 5 & 6 Geo. II. (b).

9. What Time an Attorney or Person sued by him has to plead. Mich. 5 Ann. reg. 3. (a).

10. What Time Defendant has to plead on Removal by Habeas Corpus. Hill. 2 Jac. II. Note (f).

11. In what Time Defendants in Custody must plead. See Prisoners 9, 10, 11.

12. If any Deed be set forth with a Proferit in Cur', Defendant may demand Oyer and a Copy before he pleads. Trin. 5 & 6 Geo. II. (b).

13. In what Time to plead after Oyer. *ibid.*

14. In Suits by Original, Defendant need not plead till Oyer of the Original. Trin. 5 & 6 Geo. II. (d).

15. In what Time after Amendment of the Declaration. *Ibid.* & Mich. 10 Geo. II. reg. 2. (d).

16. On Amendment Defendant may plead de novo. *Ib.*

17. In what Cases Defendant may vary his Plea. Trin. 5 & 6 Geo. II. (b).

18. When Defendant must plead without Demand of a Plea. Mich. 10 Geo. II. reg. 2. (d). Trin. 5 & 6 Geo. II. (b).

19. If Rule before in the same Term, no new Rule to plead. *ibid.*

20. No need of Affidavit to plead several Pleas. Trin. 5 & 6 Geo. II. (b).

21. The General Issue cannot be waived, a Special Plea on Demurrer may. *ibid.*

22. If a Judgment be pleaded, the Term and Number of the Roll to be given, if required. *ibid.*

23. In Case of a dilatory Plea or frivolous Demurrer, the Court will order Defendant to stand by it, or plead instantly, or on the Morrow. *ibid.*

24. Defendant when bound to plead an issuable Plea, yet may demur to the Replication. *ibid.*

25. The common Bar and new Assignment to be forborn in Pleadings, where the Certainty is contained in the Declaration. Mich. 1654. *sic.* 16.

26. Unnecessary Repetitions to be avoided in Pleadings. *ibid.*

27. In pleading an Outlawry the mean Process not to be repeated. *ibid.*

28. In pleading a general Statute, the Statute not to be recited. *ibid.*

29. General Pleas to be delivered to the Plaintiff's Attorney, or entered in the general Issue Book. Trin. 5 & 6 Geo. II. (b).

Pleadings (Special).

30. — are to be left with the Clerks of the Papers, who are to make and sign Copies. Trin. 1 Jac. I. Trin. 16 Car. II. Mich. 2 W. & M.

31. Special Pleas are to be signed by Counsel. East. 18 Car. II.

The TABLE to the Rules and Orders in B. R.

32. Pleas to be entered in the Office three Days after the End of every Term. *Trin. 14 Car. II. reg. 2.*
33. In what Cases Attorneys may make up Issues. *see Paper Book. 1.*

Posteas.

1. Attorneys to take Care that *Posteas* be marked by the Clerk of the *Posteas* two Days after Receipt thereof, and before Costs are taxed. *Trin. 2 Jac. I. reg. 2.*
2. The Clerks of Assize to appear with their *Posteas* the first Day of *Easter* and *Michaelmas* Term. *Mich. 1654. sec. 1.*
3. Formerly *Posteas* were to be delivered out of Court only to Prothonotaries Clerks and Filazers *Hill. 1657.* but now are usually delivered to Attorneys.

Prisoners.

1. No Bailiff to take from any Prisoner in his Custody a Warrant to acknowledge Judgment, unless in the Presence of an Attorney. *Easter 15 Car. II.*
2. The ancient Practice in relation to proceeding against or discharging Prisoners. *Easter 5 W. & M. reg. 3. Note (a). Easter 16 Car. II. Mich. 1654. sec. 11.*
3. Rules for delivering Declaration to Prisoners in Gaol. *Easter 5 W. & M. reg. 2, 3.*
4. The Statute 4 & 5 W. & M. for delivering Declarations against Prisoners in Gaol. *Easter 5 W. & M. reg. 3. Note (a).*
5. Prisoners on criminal Account not to be charged with Civil Actions. *Trin. 2 Geo. I. Note (c).*
6. — to be alledged in the Declaration in whose Custody the Prisoner is. *Easter 5 W. & M. reg. 3. (a).*
7. — Bill to be filed before a Copy delivered. *ibid. (b).*
8. — not to be delivered before the Return of the Process. *Easter 5 W. & M. reg. 2, 3.*
9. Attachment against Gaoler concealing Declaration. *ibid.*
10. No Rule to appear and plead till Affidavit made and filed of the Delivery of the Declaration. *ibid.*
11. In what Time Prisoner must plead if in Custody of a Gaoler. *ibid.*
12. In what Time a Prisoner in Custody of the Marshal is to plead. *ibid. reg. 3. (c).*
13. Copy of the Affidavit to be produced before the signing of Judgment. *ibid.*
14. Affidavit of delivering Copy of Declaration not necessary when the Defendant is in the Custody of the Marshal. *ibid. reg. 3. (c).*
15. Prisoners how charged in Execution. *Trin. 2 Geo. I. Note (c).*
16. How to proceed against a Prisoner charged with a Declaration in the Custody of the Marshal after removing himself to the Fleet. *ibid.*
17. How in the Fleet after removing to the King's Bench. *ibid.*
18. Prisoner on mesne Process taken on Escape Warrant may be discharged unless Declaration be delivered in two Terms. *Trin. 6 Ann.*
19. Defendant after Judgment rendering in Discharge of Bail to be charged in Execution in two Terms. *Trin. 2 Geo. I. Note (c).*
20. Plaintiff not declaring in two Terms, Prisoner may be discharged on Common Bail. *Trin. 2 Geo. I. Easter 5 W. & M. reg. 2. Mich. 1654. sec. 11.*
21. The Term in which the Process is returnable to be accounted one. *Trin. 2 Geo. I. Note (d).*
22. Plaintiff not proceeding to Trial or Judgment in three Terms after Declaration, Prisoner may be discharged on Notice. *Trin. 2 Geo. I. Former Rule, Easter 16 Car. II.*

23. Prisoner may be discharged if not charged in Execution in two Terms after Judgment on Notice. *Trin. 2 Geo. II. Trin. 9 W. III.*

24. How to discharge a Prisoner out of the Custody of a Sheriff. *Trin. 2 Geo. I. Note (c).*

25. — How out of the Custody of the Marshal. *ibid.*

26. Prisoners removed from the Fleet to the King's Bench to remain there till the Fees of the Fleet are paid. *Hill. 14 Car. I.*

27. Prisoners committed on Habeas Corpus to the Custody of the Marshal to remain two Days notwithstanding any other Habeas Corpus. *Hill. 5 W. & M.*

28. Rules for the better Government of the King's Bench Prison. *Mich. 3 Geo. II.*

29. The Marshal to suffer none in his Custody or within the Rules to go out thereof. *Mich. 28 Car. II.*

30. What Fees ought to be paid by Prisoners in the King's Bench Prison. *17 Dec. 4 Geo. II.*

Privilege.

See Attorneys 23.

Procedendo.

1. A *Procedendo* unless Bail on Removal by Habeas Corpus in four Days after Notice in Term, and six in Vacation. *Hil. 10 W. III. (c) Mich. 16 Car. II. Note (a).*
2. After Exception, a Rule for a *Procedendo* in four Days unless better Bail, whether in Term or Vacation. *ib.*

Proviso.

See Trial.

1. When Trials by Proviso may be bad. *Mich. 4 Ann. (c).*
2. What Notice of such Trial to be given. *ibid.*
3. Both Plaintiff and Defendant may carry down the Record. *ibid.*
4. Costs for not going on to Trial by Proviso. *ibid.*

Records of Nisi prius.

1. Records of *Nisi prius* in London and Middlesex to be sealed on or before the Day appointed by the Chief Justice. *Easter 7 Geo. I.*
2. No Record of *Nisi prius* to be sealed before the Issue or an Incipitur be entered on the Roll, and both brought to the Secondary to be signed. *Mich. 5 Ann. reg. 1. Trin. 1 Jac. II. Easter 1657. Hill. 1649.*
3. The Manner of ingrossing the Record of *Nisi prius*. *Mich. 5 Ann. (a).*
4. When Records of *Nisi prius* for Trial at the Assizes are to be sealed. *Trin. 31 Car. II. Former Rule, Trin. 15 Car. II. reg. 2.*
5. The Attorneys of this Court who attend at the Assizes, to pay no more than the Attorneys of the Common Pleas for putting in the Record. *Easter 13 Jac. I.*
6. In Causes to be tried in the Circuits, the Writ and Record to be entered together. *Trin. 10 & 11 Geo. II.*

Replications, Rejoinders, &c.

See Paper Books,

1. What Time to reply on Rule given by Secondary. *Trin. 1 Geo. II. Note (d).*

The TABLE to the Rules and Orders in B. R.

2. *A Term's Notice to reply if no Proceedings in four Terms.* Trin. 5 & 6 Geo. II. Note (b).
3. *What Time to reply after Oyer of a Deed mentioned in the Plea.* *ibid.*

Rolls.

1. No number'd Rolls to be delivered to any but the Clerks of the Chief Clerk. Mich. 5 Ann. Mich. 1654. sec. 14. Trin. 1 Jac. II.
2. They are now delivered to Attorneys as well as the Clerks. Mich. 5 Ann. (c).
3. No Rolls to be carried into the Country. Mich. 1654. sec. 14.
4. No Rolls to be received or allowed for by the Clerk of the Treasury, unless marked by the Person appointed by the Chief Justice to deliver out the Rolls. Trin. 1738.
5. The Rolls of Trinity, Michaelmas and Hillary Terms to be brought in before the Effoin-Day of every subsequent Term, and the Rolls of Easter before the first Day of Trinity Term. Mich. 5 Ann. reg. 1. Trin. 10. Mich. 9. and Easter 9 W. III. Easter 5 W. & M. Easter 1657.
6. The Issue or an Incipitur to be entered on the Roll before the Record of *Nisi prius* is sealed or passed. Mich. 5 Ann. Former Rules, Easter 1657. Hill. 1649.
7. Every Judgment or an Incipitur to be entered on the Roll before Judgment is signed. Mich. 5 Ann.
8. By whom and in what Manner Entries are to be made on the Rolls. Hill. 1657.
9. Warrants of Attorney to be entered on the Roll at the Beginning of the Cause, otherwise the Roll not to be received or filed. Easter 4 Jac. II.
10. No Plea Roll to be filed after the Term following that of which it ought to be filed of. East. 9 W. III.
11. The Clerk of the Treasury to appoint one to attend, that Access may be had to the Rolls. Trin. 1656. reg. 2.

Rules.

1. After a Motion and Rule therein made in Presence of Counsel, the Court is not to be again moved, contrary to that Rule. Hill. 2 Jac. I.
2. Rules made after the third Day after any Term void. Trin. 14 Car. II. reg. 2.
3. Summons's to attend, Orders made, or other Matters transacted by a Judge at his Chambers during the Sitting of the Court, void. Mich. 11 Geo. I.

Scire Facias.

1. **T**HERE ought to be fifteen Days between the Teste and Return of every Sci' Fa' by Original. Easter 5 Geo. II. reg. 3. (c). Trin. 8 W. III. reg. 1. (c).
2. — if by Bill, fifteen Days between the Teste of the first and Return of the last Sci' Fa'. *ibid.*
3. The Alias Scire facias to bear Teste the Return of the first, and not to issue till the first be returnable. Trin. 8 W. III. reg. 1.
4. If one only issue, no Time limited between the Teste and Return. Easter 5 Geo. II. reg. 3. (c).
5. Every Sci' Fa' on which a Scire faci is returned to be left four Days exclusive in the Sheriff's Office before the Return. Easter 5 Geo. II. reg. 3.
6. Every first Sci' Fa' on which a Nihil is returned to be left sometime in the Sheriff's Office before the Return. *ibid.*

7. Every Alias Sci' Fa' to be left four Days in the Office before the Return. *ibid.*
8. The Time when every Sci' Fa' is left in the Office to be indorsed by the Sheriff. *ibid.*
9. Where Judgment must be reviewed by Sci' Fa' if no Execution within a Year. *ibid.* Note (c).
10. In what County the Sci' Fa' to revive a Judgment must be sued. *ibid.*
11. — when to be made returnable on a Day certain, when on the Effoin-Day. *ibid.*
12. If either Party die before Execution, a Sci' Fa' to issue. *ibid.*
13. In what County the Sci' Fa' against Bail is to issue. *ibid.*
14. What Entries are to be made on the Roll before the Sci' Fa' is made out against Bail. *ibid.*
15. Sci' Fa' will not lie against Bail till a Ca' Sa' be returned against the Principal. *ibid.*
16. — when to be entered on the Rolls. *ibid.*
17. How two Scire Facias's of different Terms are to be entered. *ibid.*

Seal Office.

See Writs 14 to 17.

Sheriffs.

1. — to cause sufficient Summons to be given to Jurymen. Easter 1651.
2. — not to suffer Prisoners brought up by Habeas Corpus to wander. Mich. 1654. sec. 7.
3. — to return all Writs before or immediately after the End of every Term. Easter 6 Jac. I.
4. — to return Writs or bring in the Body in six Days after Service of a peremptory Rule for that Purpose, or liable to Attachment. Mich. 6 Geo. II.
5. — to indorse on every Sci' Fa' the Day it is left in their Office. Easter 5 Geo. II. reg. 3.
6. — To indorse the Attorney's Name on Warrants. Trin. 1 Geo. II. Note (b).
7. — not to make out any Warrants before the Writ be delivered, nor deliver out blank Warrants. Mich. 1694. sec. 2. 15 Car. II. reg. 4.
8. Sheriffs and Under Sheriffs not to delay the Execution of Process or Return of Writs, or take undue Fees, or detain Money. Mich. 1654. sec. 2.
9. Every Sheriff to have his Deputy in Court. Mich. 1654. Easter 15 Car. II. reg. 4.
10. — such Deputy personally to appear before the Effoin Day of the second Return of every Term. Mich. 1654. sec. 1. Easter 23 Car. I.
11. — to attend daily in Court in Term Time. Easter 15 Car. II. reg. 4. Hill. 21 Car. I.
12. The Sheriff of Chester to return Writs directed to him. Trin. 21 Car. I.
13. The Sheriffs of Wales to execute Judicial Writs. Hill. 19 Jac. I.

Sittings.

1. Causes to be entered in the Judge's Book two Days before the Sitting, or a Ne recipiatur may be entered. Hill. 15 & 16 Car. II.
2. At the Sittings after Term no Ne recipiatur till after Proclamation. Mich. 4 Ann. (a).
3. Plaintiff hindered of a Trial by Ne recipiatur may try the Cause at the next Sitting on Notice. Mich. 4 Ann.
4. At he may if not ready at the Day for which Notice was given. *ibid.* (c).
5. If not tried at the next Sitting, Notice to be given as at first, unless made a Remanet. *ibid.*

The TABLE to the Rules and Orders in B. R.

Solicitors.

1. Common Solicitors not to practise unless admitted Attorneys. *Mich. 1654. sec. 1.*
2. —but not to extend to the managing of Evidence or Servants in the Causes of their Masters. *ibid.*

Summons.

See Rules 3.

Sundays and Holidays on which the Court doth sit.

1. —when accounted one of the four or six Days to put in Bail. *Mich. 8 Ann. reg. 1. (c)*
2. —when accounted one of the four or eight Days to plead. *Trin. 1 Geo. II. (d)*
3. —or to plead in Abatement. *Easter 5 Ann (a).*
4. —when one of the eight or fourteen Days in Notices of Trial. *Mich. 4. Ann. (c).*
5. —when one of the four Days to move for a new Trial, or in Arrest of Judgment. *Easter 5 Geo. II. reg. 3. (c).*

Tipstaff.

—his Fees on Commitments. —4 Geo. II.

Trial.

1. Due Notice of Trial to be given in all Causes. *Mich. 1651.*
2. When eight Days Notice of Trial is sufficient. *Mich. 4 Ann. Note (c).*
3. When a Term's Notice must be given. *ibid.*
4. —Sunday one of the Days. *ibid.*
5. Notices and Countermands to be in Writing. *ibid.*
6. Notice of Trial on Special Issue to serve for General Issue if the Special Issue be waived. *Hill. 8 Geo. I. Note (a).*
7. Where two Days Notice of Countermand is sufficient. *Mich. 4 Ann. (c).*
8. Unless Causes be entered with the Chief Justice two Days before the Sitting, a *Ne recipiatur* may be entered. *Hill. 15 & 16 Car. II. reg. 2.*
9. Plaintiff hindered of a Trial by a *Ne recipiatur* may try the Cause at the next Sitting on Notice. *Mich. 4 Ann.*
10. When *Ne recipiatur* may be entered at the Sitting after Term. *Mich. 4 Ann. Note (a).*
11. Issues joined of a former Term are to be tried the first or second Sitting of every Term. *Hill. 20 & 21 Car. II. Former Rule, Hill. 15 & 16 Car. II.*
12. On Trials at Bar the Secondary to name forty-eight Jurors, and the Attorneys of each Side to strike out twelve. *Trin. 8 W. III. reg. 2.*
13. The Party applying for a Special Jury to be at the Expence. *ibid. the Note (d).*
14. The Day of Trial at Bar to be appointed by the Court, but Plaintiff may countermand. *Mich. 4 Ann. Note (c).*
15. No Trial at Bar in an issuable Term. *Mich. 4 Ann. Note (d).*
16. On Trials at Bar each Juror lying out one Night after a Privy Verdict to be allowed only 3 s. 4 d. for Diet besides the Charges of his Lodging. *Mich. 1654. sec. 21.*

17. Trial not to be staid on not paying Costs for not going to Trial on former Notice, except Ejectment. *Mich. 4 Ann. Note (c).*

18. In Causes to be tried in the Circuits, the Writ and Record to be entered together. *Trin. 10 & 11 Geo. II.*

19. If the Plaintiff give Notice of Trial and proceed not, he shall not take it down to Trial without new Notice. *Mich. 1654. sec. 18.*

20. If the Plaintiff do not countermand in Time, the Defendant shall have Costs. *ibid.*

21. When Trials by Privy may be had. *Mich. 4 Ann. Note (c).*

22. Notice of such Trial to be given, and Costs for not going on to Trial. *ibid. (c).*

23. Both Plaintiff and Defendant may carry down the Record. *ibid. (c).*

24. A new Trial may be had where a Verdict finds entire Damages, and Part not actionable though Judgment be arrested. *Mich. 1654. sec. 21.*

Venue.

1. ACTIONS upon the Case, Trespas for Goods, Assault or Imprisonment to be laid in their proper Counties. *Mich. 1654. sec. 5.*

2. —except they arise where the Justices seldom come. *ibid.*

3. In what transitory Actions the Venue may be changed. *Mich. 10 Geo. II. reg. 2. Note (c).*

4. Before Plea the Venue may be changed on Oath. *Mich. 1654. sec. 5.*

5. —may be changed, though the Defendant come in by Exigent. *ibid.*

6. Where the Evidence arises in two Counties, the Plaintiff may lay the Venue in which he will. *Mich. 10 Geo. II. reg. 2. Note (c).*

7. Where the Plaintiff shall not alter his Venue. *ibid.*

8. The Privilege of Barristers, Attorneys and Officers, as to laying and altering the Venue. *ibid.*

9. On Causes removed out of Cities or Towns where Justices of *Nisi prius* seldom come, if the Action be transitory, the Venue must be laid in that County wherein the City or Town lies. *Mich. 1654. sec. 9.*

Verdicts.

1. In Special Verdicts the unnecessary finding of Deeds in *hac verba* to be forborn. *Mich. 1654. sec. 20.*

2. —where the Points are single, and no Special Conclusion, the Counsel to subscribe the Points in Question and agree to amend Mistakes. *ibid.*

3. When Books are to be delivered to the Judges on arguing Special Verdicts. *Easter 2 Jac. II.*

Under-Sheriffs.

1. Under-Sheriffs delaying the Execution or Return of Writs, taking undue Fees, or detaining Money, liable to Attachment. *Mich. 1654. sec. 2.*

2. —on Service of a peremptory Rule to make Return in six Days, or liable to Attachment. *Mich. 6 Geo. II.*

3. —not to practise as an Attorney. *Mich. 1654. sec. 1.*

4. Deputy Sheriffs to appear in Court by the Effoin Day of the second Return of every Term. *Mich. 1654. sec. 1.*

The TABLE to the Rules and Orders in B. R.

Wales.

See *Sheriffs* 13.

Warrants.

1. **N**O Blank Warrants to be delivered by Sheriffs, nor Warrants granted before the Writ is received. *Easter 15 Car. II. Mich. 1654. sec. 2.*
2. *Sheriffs to indorse the Attorney's Name on Warrants.* Trin. 1 Geo. II. Note (b).

Warrants of Attorney.

1. The Defendant's Attorney at the Time of his appearing to give the Plaintiff's Attorney the Warrant of Attorney, and pay 4 d. for the same at the Delivery of the Declaration, *aliter* Judgment. *Mich. 5 Ann. reg. 2.*
2. — may be filed at any Time before Defendant has pleaded. *ibid.* Note (e).
3. Warrants of Attorney to be entered on the Judgment Roll. *Easter, 4 Jac. II.*
4. A Warrant of Attorney to confess Judgment by a Person in Custody not binding, unless his Attorney be present. *Easter, 15 Car. II. reg. 2.*

Writs.

1. *Latitats* and all other signable Writs to be duly signed before sealing. *Trin. 1656. Easter 15 Car. II. reg. 1. Easter 1659.*
2. All Writs and Procefs upon Originals before Defendant's Appearance to be signed by the Filazer. *Easter 31 Car. II.*

3. — and Writs by Original to be signed by him before Sealing. *Hill. 31 Car. II.*

4. What Fines are to be paid on original Writs. *Hill. 6 W. & M.*

5. *The Day and Year of signing Procefs to be set down thereon.* Trin. 1 Geo. II. Note (b).

6. *The Name of the Attorney to be wrote on every Writ, and Procefs.* Trin. 1 Geo. 2. Note (b).

7. On signing every new *Alias*, *Pluries* and not *Omitas*, a Note of the Term when the *Latitat* issued to be subscribed. *Trin. 1656.*

8. Sheriffs to return all Writs immediately after the End of every Term. *Easter 6 Jac. I.*

9. Sheriffs on Service with a Rule, to return Writs in six Days. *Mich. 6 Geo. II.*

10. All judicial Writs to be executed by the Sheriffs of *Wales*, as in *English* Counties. *Hill. 19 Jac. I.*

11. The Sheriff of *Chester* to return all Writs directed to him, on Penalty of 50 l. *Trin. 21 Car. II.*

12. Concerning Writs wherein the Cause of Action is specially set forth and expressed. *Hill. 2 Geo. II.*

13. *No Special Writ where the Cause of Action is under 10 l.* *ibid.* Note (b).

14. That one or more Persons may attend the Seal on Behalf of the King, and stamp the Writs. *Hill. 25 Car.*

15. — the like Rule on the Behalf of the Earl of *Suffolk.* *Easter 32 Car. II.*

16. The Officers of the Seal may inspect Writs in the Custody of Under-Sheriffs, to see they are duly sealed. *Trin. 4 W. & M. reg. 3. Former Rule, Trin. 1656.*

17. The Keeper of the Seal to allow every Clerk the Sealing of one Writ *gratis* every Term. *Mich. 13 Car. II.*

F I N I S.